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A Manual of Laws

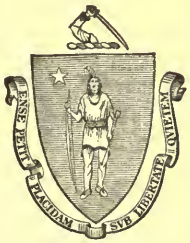
RELATING TO THE

State Board of Charity

OF MASSACHUSETTS

PREPARED BY THE SECRETARY OF THE STATE BOARD OF CHARITY.
PUBLISHED BY AUTHORITY OF RESOLVES OF 1913, CHAPTER 14.

This compilation comprises all Statutes down to and including the Session of 1915. The notes on decisions are corrected to January, 1915.



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The following Manual is so arranged that the chapters of the Revised Laws dealing with the field of charity are given consecutively. Appended to each section of each of these chapters is all of the law appertaining that has been enacted since the Revised Laws were codified, in 1902. All subsequent laws that deal with the general subject of the chapter, but do not amend or repeal specific sections, appear under "Additional Legislation" directly following the amendments.

All law presently in force appears in full-size type. All portions of the Revised Laws and subsequent acts that have been repealed, superseded or amended appear in small type. This plan is followed because, though the superseded laws are essential to the determination of many cases and must therefore appear in the Manual, there should be some mark or contrast that will readily distinguish the living statutes from the background out of which they project.

The footnotes in this volume represent a partial digest of the Massachusetts decisions bearing upon the text. They are not to be taken as authoritative, and are intended merely as a guide and reference for agents of the Board and others making use of the Manual.

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A COMPILATION OF LAWS RELATING TO THE STATE BOARD OF CHARITY.

DISBURSING OFFICERS. ADVANCES FROM THE TREASURY.

[1914, 370.]

AN ACT RELATIVE TO ADVANCES OF MONEY FROM THE TREASURY OF THE COMMONWEALTH TO CERTAIN OFFICIALS.

Officers authorized to expend money may have moneys advanced to them under certain conditions, etc.

SECTION 1. Officers who are authorized to expend money in behalf of the commonwealth may have money advanced to them from the treasury, in such sums and subject to such rules and regulations as the auditor of the commonwealth may determine, for the following purposes and subject to the following conditions: — To carry out the provisions of law requiring weekly payments of wages, to secure cash discounts wherever possible, and to pay the necessary expenses incurred by them or by employees of their departments when obliged to travel in the discharge of their duties. For other purposes, except as hereinafter provided, there may be advanced to them sums not exceeding one hundred and fifty dollars at any one time.

Certain officers may have certain sums advanced to them.

SECTION 2. The acting paymaster general of the militia may have advanced to him from the treasury of the commonwealth one hundred per cent of the pay and mileage for duty performed at camp or annual drill, under such rules and regulations as the auditor may prescribe, and shall return the unexpended balance of the sum so advanced as soon as possible, or at such times as the auditor may require; the board of prison commissioners, for aiding prisoners who have been discharged from the Massachu-

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setts reformatory, five hundred dollars; the sergeant-at-arms, for necessary and legitimate expenditures made by him for committees of the general court while travelling under an order thereof, two thousand dollars, and for the incidental expenditures made by him in the care of the state house and grounds, five hundred dollars; the attorney-general, five hundred dollars.

R. L. 6, § 35, and subsequent acts repealed.

Section 3. Section thirty-five of chapter six of the Revised Laws, chapter four hundred and thirty-four of the acts of the year nineteen hundred and eight, chapter two hundred and eighteen of the acts of the year nineteen hundred and nine, chapter four hundred and eighty-eight of the acts of the year nineteen hundred and ten, chapter one hundred and forty-five of the acts of the year nineteen hundred and twelve, chapter three hundred and fifty-two of the acts of the year nineteen hundred and twelve, chapter forty-five of the acts of the year nineteen hundred and fourteen and all other acts and parts of acts inconsistent herewith are hereby repealed.

Section 4. This act shall take effect upon its passage. [*Approved April 17, 1914.*

For provision as to reimbursement of premiums paid on official bonds, see 1908, 469.

CHARITABLE CORPORATIONS. EXEMPTION FROM TAXATION.

R. L. CHAPTER 12.

PERSONS AND PROPERTY EXEMPT FROM TAXATION.

Exemptions. R. S. 7, § 5. G. S. 11, § 5.

Section 5. The following property and polls shall be exempted from taxation: —

Of charitable, etc., institutions. 1830, 151, § 6. R. S. 7, § 5, ch. 2. G. S. 11, § 5, ch. 3. 1874, 375, § 8. 1878, 214. P. S. 11, § 5, ch. 3. 1882, 217, § 2.

The personal property of literary, benevolent, charitable and scientific institutions and of temperance societies incorporated within this commonwealth, the real estate owned and occupied by them or their officers for the purposes for which they are incorporated, and real estate purchased by them with the purpose of removal thereto,

until such removal, but not for more than two years after such purchase. Such real or personal property shall not be exempt if any of the income or profits of the business of such corporation is divided among the stockholders or members, or is used or appropriated for other than literary, educational, benevolent, charitable, scientific or religious purposes, nor shall it be exempt for any year in which such corporation wilfully omits to bring in to the assessors the list and statement required by section forty-one.

1886, 231. 1888, 158. 1889, 465. 2 Cush. 611. 12 Cush. 54. 99 Mass. 599. 101 Mass. 319. 104 Mass. 470, 481. 113 Mass. 518. 114 Mass. 337. 116 Mass. 181, 188. 118 Mass. 164, 362. 120 Mass. 212. 129 Mass. 178. 136 Mass. 285. 142 Mass. 24. 145 Mass. 111, 139.

147 Mass. 396, 427. 153 Mass. 85. 154 Mass. 15. 155 Mass. 329. 160 Mass. 409. 167 Mass. 505. 172 Mass. 60. 173 Mass. 232. 174 Mass. 144. 175 Mass. 188, 145, 293.

RECOMMENDATIONS FOR LEGISLATION.

[1910, 452.]

AN ACT RELATIVE TO THE RECOMMENDATIONS FOR LEGISLATION IN THE ANNUAL REPORTS OF STATE BOARDS AND COMMISSIONS.

SECTION 1. Section six of chapter eighteen of the Revised Laws is hereby amended by inserting after the word "action", in the sixth line, the words: — such recommendations or suggestions to be accompanied by drafts of bills embodying the legislation recommended, — so as to read as follows: — *Section 6.* State boards and commissions shall annually, on or before the first Wednesday in January, deposit with the secretary of the commonwealth such parts of their annual reports which are required to be made to the governor and council or to the general court as contain recommendations or suggestions for legislative action, such recommendations or suggestions to be accompanied by drafts of bills embodying the legislation recommended, and the secretary shall forthwith transmit them to the governor and council or to the general court.

R. L. 18, § 6, amended.

Recommendations for legislation, etc.

SECTION 2. This act shall take effect upon its passage. [*Approved April 27, 1910.*

For provision exempting the Commission on Economy and Efficiency, see 1915, 222.

WORKHOUSES AND ALMSHOUSES.

R. L. CHAPTER 30.

OF WORKHOUSES AND ALMSHOUSES.

Workhouses or almshouses, commitments thereto.
1743-4, 12, §§ 1, 8.
1788, 30, §§ 7, 11.
1828, 142, § 3.
R. S. 16, §§ 1, 22; 46, § 4.
1852, 275.
1857, 153.
G. S. 22, §§ 1, 22.
P. S. 33, §§ 1, 22.
8 Allen, 73.
127 Mass. 4.
137 Mass. 175.
151 Mass. 507.
152 Mass. 503.
186 Mass. 342.

SECTION 1. A city or town may erect or provide a workhouse or almshouse for the employment and support of indigent persons maintained by or receiving alms from it; of persons who, being able to work and not having estate or means otherwise to maintain themselves, refuse or neglect to work; of persons who live a dissolute, vagrant life and exercise no ordinary calling or lawful business; of persons who spend their time and property in public houses to the neglect of their proper business or who, by otherwise misspending their earnings, are likely to become chargeable to the city or town; and of other persons sent thereto under any provisions of law.[1]

[1904, 274.]

AN ACT RELATIVE TO THE CUSTODY OF PERSONS COMMITTED TO WORKHOUSES OR ALMSHOUSES FOR CRIMINAL OFFENCES.

Persons committed to almshouses, etc., for criminal offences to be confined in separate quarters, etc.

SECTION 1. [*Amended by 1905, 348, infra.*] Persons committed to any workhouse or almshouse established under the provisions of section one of chapter thirty of the Revised Laws, for vagrancy, drunkenness or petit larceny, or as night walkers, rogues or vagabonds, or for any other offence against the laws of the commonwealth, shall be confined in separate and distinct quarters in such workhouse or almshouse and shall not be permitted to associate or communicate with the pauper inmates thereof.

[1] Where the municipal authorities provide supplies for the relief of the poor outside the almshouse to be distributed upon order of the overseers and have notified the overseers to that effect, the said overseers have no authority to contract debts for supplies; and a person furnishing such supplies with knowledge of the action of the authorities cannot recover on a claim for goods sold and delivered. *Ireland* v. *Newburyport* (1864), 8 Allen, 73. A written agreement to employ a warden beyond the current year, where the overseers contracting for the town cease as a board to exist at the expiration of such year, cannot be enforced against the town in the absence of ratification by the succeeding board. And such ratification to be valid must have been made by the succeeding overseers as a body and not individually. *Reed* v. *Lancaster* (1890), 152 Mass. 500. A city or town is not liable for an injury to an inmate of its workhouse though sustained in the course of labor from which the city or town derives a profit. *Curran* v. *Boston* (1890), 151 Mass. 505. A pauper cannot recover from a city or town for services rendered by him as an inmate of its almshouse. Nor can a city or town recover from a former inmate of its almshouse for money expended for his use, where it appears that while being so supported he rendered service as an inmate equal in value to the cost of his support. *Taunton* v. *Talbot* (1904), 186 Mass. 341. But in general a pauper is entitled to set up the value of services rendered to the town in recoupment against a claim for aid rendered. *Millis* v. *Frink* (1913), 213 Mass. 350.

Section 2. Any officer or other person having authority in or over any workhouse or almshouse as aforesaid, who knowingly violates the provisions of this chapter, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment. Penalty.

Section 3. This act shall take effect on the first day of October in the year nineteen hundred and four. [*Approved April 30, 1904.* To take effect October 1, 1904.

[1905, 348.]

An Act relative to persons received in workhouses and almshouses as tramps or vagrants.

Section 1. Section one of chapter two hundred and seventy-four of the acts of the year nineteen hundred and four is hereby amended by inserting after the word "commonwealth", in the sixth line, the words: — and persons received therein as tramps or vagrants without commitment, — so as to read as follows: — *Section 1.* Persons committed to any workhouse or almshouse established under the provisions of section one of chapter thirty of the Revised Laws, for vagrancy, drunkenness or petit larceny, or as night walkers, rogues or vagabonds, or for any other offence against the laws of the commonwealth, and persons received therein as tramps or vagrants without commitment, shall be confined in separate and distinct quarters in such workhouse or almshouse and shall not be permitted to associate or communicate with the pauper inmates thereof. 1904, 274, § 1, amended. Tramps and certain persons committed to almshouses, etc., to be confined in separate quarters, etc.

Section 2. This act shall take effect upon its passage. [*Approved, April 28, 1905.*

For other provisions as to the lodging of tramps and vagrants, see 1905, 344, p. 11, infra.

Section 2. No city or town shall erect or maintain an almshouse or house of correction within the limits of any other city or town, without the consent of the latter. Location of almshouse. 1848, 291. G. S. 22, § 2. P. S. 33, § 2.

Section 3. A city or town which has a workhouse or almshouse may annually choose three, five, seven or more directors, who shall have the management thereof and who may appoint a master and assistants. If such di- Directors of workhouse, master, etc. 1743–4, 12, § 1. 1788, 30, § 1. R. S. 16, §§ 2, 3.

G. S. 22, § 3.
P. S. 33, § 3.
152 Mass. 503.
186 Mass. 342.

rectors are not chosen, the overseers of the poor shall be the directors.

Meetings of directors.
1743–4, 12, § 1.
1788, 30, § 1.
R. S. 16, § 4.
G. S. 22, § 4.
P. S. 33, § 4.

Section 4. The directors shall hold general meetings at least once in every month at which they may make orders and regulations for the house, which shall be binding until the next meeting of the town or of the city council, when the same shall be submitted to such meeting, and if approved shall remain in force until revoked by the town or by the city council.

Joint workhouses.
1743–4, 12, § 2.
1788, 30, § 2.
1828, 142, § 3.
R. S. 16, § 5; 46, § 4.

Section 5. Any number of cities or towns may, at their joint charge and for their common use, erect or provide a workhouse or almshouse and purchase land for the use thereof. G. S. 22, § 5. P. S. 33, § 5.

Joint board of directors.
1743–4, 12, § 2.
1788, 30, § 2.
R. S. 16, § 6.
G. S. 22, § 6.
P. S. 33, § 6.

Section 6. The management and repair of such house and the appointment, or removal for sufficient cause, of a master and assistants shall be vested in a joint board of directors, who shall be chosen annually by the several cities and towns interested.

Each place to choose three directors, etc.
1743–4, 12, § 2.
1788, 30, § 2.
R. S. 16, §§ 7, 8.
G. S. 22, § 7.
P. S. 33, § 7.

Section 7. Unless all the cities and towns interested in such house agree to choose a different number, each of them shall choose three members of the board; and upon the death of a director, or his removal from the place for which he was chosen, the vacancy may be filled by such city or town. If a city or town neglects to choose directors, those chosen by the other cities and towns shall have the whole charge of the house.

Meetings of directors.
1743–4, 12, § 3.
1788, 30, § 3.
R. S. 16, § 9.
G. S. 22, § 8.
P. S. 33, § 8.

Section 8. Quarterly meetings of the board shall be held on the first Tuesday of January, April, July and October at the workhouse or almshouse under its charge, for the purpose of inspecting the management and directing the business thereof. Meetings may be called at other times by the directors chosen by any city or town interested, by giving notice of the time and purpose thereof to the other members in the manner fixed by the by-laws.

Moderator and clerk.
1743–4, 12, § 4.
1788, 30, § 3.

Section 9. The board of directors may choose a moderator, and at their first general meeting they shall ap-

point a clerk, who shall be sworn and shall record all votes and orders of the board.

R. S. 16, § 10.
G. S. 22, § 9.
P. S. 33, § 9.

Section 10. If one-half of the members are present, at a quarterly meeting, they may make reasonable orders and by-laws, not inconsistent with law, for ordering and regulating the house under their charge, establishing the manner of calling meetings, and determining the compensation of the master and assistants.

By-laws, etc.
1743-4, 12, § 5.
1788, 30, § 4.
R. S. 16, §§ 11, 12.
G. S. 22, § 10.
P. S. 33, § 10.

Section 11. Other matters may be acted upon at any meeting duly notified, if one-third of the members are present; but the doings of such meetings may be altered or revised at any general meeting.

Boards may act upon other matters.
1743-4, 12, § 5.
1788, 30, § 4.
R. S. 16, § 12.
G. S. 22, § 11.
P. S. 33, § 11.

Section 12. The compensation of the master and assistants, and also the expense of keeping the house in repair, shall be paid by the several cities and towns interested, in proportion to their state tax at the time when the expense was incurred, or in such proportion as they shall agree.

Compensation, by whom paid.
1743-4, 12, § 6.
1788, 30, § 5.
R. S. 16, § 13.
G. S. 22, § 12.
P. S. 33, § 12.

Section 13. If a city or town refuses or neglects to advance or reimburse its proportion of the sums of money mentioned in the preceding section, or of any other charges mentioned in this chapter, after it has been adjusted by the joint board of directors, the same may be recovered in an action of contract brought by any person whom the board in writing appoints for that purpose.

Remedy against places neglecting to pay.
1743-4, 12, § 6.
1788, 30, § 5.
R. S. 16, § 14.
G. S. 22, § 13.
P. S. 33, § 13.

Section 14. No greater number of persons belonging to a city or town shall be received into such workhouse or almshouse than such city's or town's proportion of such house, when it would exclude or be inconvenient to such as belong to the other cities or towns interested.

Number of inmates to be proportional.
1743-4, 12, § 7.
1788, 30, § 6.
R. S. 16, § 15.
G. S. 22, § 14.
P. S. 33, § 14.

Section 15. During the time that a city or town refuses or neglects to provide its proportion of the necessary expenses of such house, or of the materials, implements or other means for performing the work there required according to its agreement or to the directions of the joint board of directors, it shall not send any person thereto.

Refusal to contribute, forfeits right to use house.
1743-4, 12, § 9.
1788, 30, § 8.
R. S. 16, § 16.
G. S. 22, § 15.
P. S. 33, § 15.

Each place may furnish materials, etc., for persons committed by it.
1743–4, 12, § 10.
1788, 30, § 9.
R. S. 16, § 17.
G. S. 22, § 16.
P. S. 33, § 16.

Section 16. Each city or town may provide, for the employment of inmates, such additional materials, implements and means of work as the overseers of the poor thereof may choose; and the master of the house shall receive them and keep them separate from those of the other cities and towns and shall be accountable to each city and town interested for the cost and for all profits and earnings of the inmates of said house from such place.

Register of inmates.
1743–4, 12, § 10.
1788, 30, § 9.
R. S. 16, § 18.
G. S. 22, § 17.
P. S. 33, § 17.
1901, 177.

Section 17. Each master shall keep a register, in a form prescribed by the state board of charity, of the names of the persons committed or received, the cities or towns to which they belong, the dates of their reception and discharge, and of their respective earnings, and shall submit it to the overseers of the poor at their request.

Controversies.
1743–4, 12, § 10.
1788, 30, § 9.
R. S. 16, § 19.
G. S. 22, § 18.
P. S. 33, § 18.

Section 18. Controversies between a master and the overseers of the poor of any city or town relative to the accounts or other official doings of the master shall be determined by the directors of the house at their general or quarterly meeting.

Profits and earnings, how appropriated.
1743–4, 12, § 12.
1788, 30, § 12.
R. S. 16, § 23.
G. S. 22, § 19.
P. S. 33, § 19.

Section 19. The profits and earnings of inmates of a workhouse or almshouse shall, with the stock remaining on hand, be disposed of as the overseers of the poor of the several cities or towns shall think proper, either to the use of their cities or towns, of the persons committed or of the families of such persons.

Discharge of inmates.
1743–4, 12, § 11.
1788, 30, § 10.
R. S. 16, § 20.
G. S. 22, § 20.
1880, 221, § 3.
P. S. 33, § 20.

Section 20. No person who has been committed to a workhouse shall be discharged within the time for which he was committed except under the provisions of section one hundred and twenty of chapter two hundred and twenty-five, or by the court or justice who made the commitment, by the directors of the house at their general or quarterly meeting or by the superior court held in the county where such house is situated, and for good cause shown upon application for that purpose.

Inmates to be employed. Discipline.
1743–4, 12, § 11.
1788, 30, § 10.

Section 21. Every person who has been committed to a workhouse shall, if able to work, be kept diligently employed in labor during the term of his commitment. If he

is idle and does not perform such reasonable task as is assigned, or if he is stubborn and disorderly, he shall be punished according to the orders and regulations established by the directors. R. S. 16, § 21. G. S. 22, § 21. P. S. 33, § 21.

Provisions respecting foreigners committed. G. S. 22, § 22. P. S. 33, § 22.

SECTION 22. When a person not having a legal settlement in this commonwealth becomes idle or indigent, he may be committed to the workhouse, to be there employed, if able to labor, in the same manner and under the same rules as other persons there committed.

Discontinuance of workhouses. 1743–4, 12, § 14. 1788, 30, § 13.

SECTION 23. A workhouse or almshouse may be discontinued or appropriated to any other use if the place or places interested so determine.

R. S. 16, § 24. G. S. 22, § 23. P. S. 33, § 23.

Construction of this chapter. 1743–4, 12, § 16. 1788, 30, § 13. R. S. 16, § 25. G. S. 22, § 24. P. S. 33, § 24.

SECTION 24. The provisions of this chapter shall not affect any powers or privileges heretofore granted to cities or towns, or to the overseers of the poor thereof, by special acts relative to workhouses or almshouses therein.

ADDITIONAL LEGISLATION.

[1905, 162.]

AN ACT RELATIVE TO THE PREPARATION OF PLANS FOR ALMSHOUSE BUILDINGS.

Preparation of plans for almshouse buildings.

The state board of charity is authorized to advise with and assist overseers of the poor in the preparation of plans for almshouse buildings, the expenses to be paid from the appropriation for expenses of the board. [*Approved March 10, 1905.*

[1905, 344.]

AN ACT RELATIVE TO THE LODGING OF TRAMPS AND VAGRANTS BY CITIES AND TOWNS.

Tramps, etc., to perform labor for lodging, etc., in certain cases, etc.

Cities and towns which provide lodging for tramps and vagrants shall require them, if physically able, to perform labor of some kind in return for the lodging and food furnished to them; and the places in which such persons are lodged shall be kept in such order and condition as may be prescribed by the state board of health. [*Approved April 26, 1905.*

SCHOOL ATTENDANCE.

R. L. CHAPTER 44.

OF SCHOOL ATTENDANCE.

School attendance regulated. 1852, 240, §§ 1, 2, 4. G. S. 41, § 1. 1873, 279, § 1. 1874, 233, § 1. P. S. 47, § 1. 1889, 464, § 1. 1890, 384. 1891, 361. 1894, 188; 498, § 1. 1898, 496, §§ 12, 31. 139 Mass. 374. 148 Mass. 623. 159 Mass. 372.

Section 1. [*Amended by 1905, 320; 1906, 383; 1913, 779, § 1; 1915, 81, Gen., infra.*] Every child between seven and fourteen years of age shall attend some public day school in the city or town in which he resides during the entire time the public day schools are in session, subject to such exceptions as to children, places of attendance and schools as are provided for in section three of chapter forty-two and sections three, five and six of this chapter. The superintendent of schools or, if there is no superintendent of schools, the school committee, or teachers acting under authority of said superintendent or committee, may excuse cases of necessary absence. The attendance of a child upon a public day school shall not be required if he has attended for a like period of time a private day school approved by the school committee of said city or town in accordance with the provisions of the following section, or if he has been otherwise instructed for a like period of time in the branches of learning required by law to be taught in the public schools, or if he has already acquired such branches of learning, or if his physical or mental condition is such as to render such attendance inexpedient or impracticable. Every person having under his control a child as described in this section shall cause him to attend school as herein required; and if he fails for five day sessions or ten half day sessions within any period of six months while under such control to cause such child, whose physical or mental condition is not such as to render his attendance at school harmful or impracticable, so to attend school, he shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars. Whoever induces or attempts to induce a child to absent himself unlawfully from school, or employs or harbors a child who, while school is in session, is absent unlawfully from school shall be punished by a fine of not more than fifty dollars.

School attendance regulated; penalty.

[1905, 320.]

An Act to extend the age for compulsory attendance in the public schools in certain cases.

R. L. 44, § 1, amended.

Section 1. [*Superseded by 1906, 383; 1913, 779, § 1; 1915, 81, Gen., infra.*] Section one of chapter forty-four of the Revised Laws is hereby amended by inserting after the word "age", in the second line, the words: — and every child under sixteen years of age who cannot read at sight and write legibly simple sentences in the English language, — so as to read as follows: — *Section 1.* Every child between seven and fourteen years of age, and every child under sixteen years of age who cannot read at sight and write legibly simple sentences in the English language, shall attend some public day school in the city or town in which he resides during the entire time the public day schools are in session, subject to such exceptions as to children, places of attendance and schools as are provided for in section three of chapter forty-two and sections three, five and six of this chapter. The superintendent of schools, or, if there is no superintendent of schools, the school committee. or teachers acting under authority of said superintendent or committee, may excuse cases of necessary absence.

Certain children to attend school.

The attendance of a child upon a public day school shall not be required if he has attended for a like period of time a private day school approved by the school committee of such city or town in accordance with the provisions of the following section, or if he has been otherwise instructed for a like period of time in the branches of learning required by law to be taught in the public schools, or if he has already acquired such branches of learning, or if his physical or mental condition is such as to render such attendance inexpedient or impracticable. Every person having under his control a child as described in this section shall cause him to attend school as herein required; and if he fails for five day sessions or ten half day sessions within any period of six months while under such control to cause such child, whose physical or mental condition is not such as to render his attendance at school harmful or impracticable, so to attend school, he shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars. Whoever induces or attempts to induce a child to absent himself unlawfully from school, or employs or harbors a child who, while school is in session, is absent unlawfully from school shall be punished by a fine of not more than fifty dollars. Penalties.

Section 2. This act shall take effect on the first day of January in the year nineteen hundred and six. [*Approved April 21, 1905.* When to take effect.

[1906, 383.]

An Act relative to compulsory education.

[*Superseded by 1913, 779, § 1; 1915, 81, Gen., infra.*]

Section one of chapter forty-four of the Revised Laws, as amended by section one of chapter three hundred and twenty of the acts of the year nineteen hundred and five, is hereby further amended by inserting after the word "dollars", in the thirty-third line, the words: — *provided, however*, that no physical or mental condition which is capable of correction, or which renders the child a fit subject for special instruction at public charge in institutions other than the public day schools, shall avail as a defence under the provisions of this section unless it shall be made to appear that the defendant has employed all reasonable measures for the correction of the condition, or the suitable instruction of the child, — so as to read as follows: — *Section 1.* Every child between seven and fourteen years of age, and every child under sixteen years of age who cannot read at sight and write legibly simple sentences in the English language, shall attend some public day school in the city or town in which he resides during the entire time the public day schools are in session, subject to such exceptions as to children, places of attendance and schools as are provided for in section three of chapter forty-two and sections three, five and six of this chapter. The superintendent of schools or, if there is no superintendent of schools, the school committee, or teachers acting under authority of said superintendent or committee, may excuse cases of necessary absence. The attendance of a child upon a public day school shall not be required if he has attended for a like period of time a private day school approved by the school committee of such city or town in accordance with the provisions of the following section, or if he has been otherwise instructed for a like period of time in the branches of learning required by law to be taught in the public schools, or if he has already acquired such branches of learning, or if his physical or mental condition is such as to render such attendance inexpedient or impracticable. Every person having under his control R. L. 44, § 1, etc., amended. 180 Mass. 20. 187 Mass. 436. 196 Mass. 309. 199 Mass. 112. Certain children to attend school. Penalties.

a child as described in this section shall cause him to attend school as herein required; and if he fails for five day sessions or ten half day sessions within any period of six months while under such control to cause such child, whose physical or mental condition is not such as to render his attendance at school harmful or impracticable, so to attend school, he shall, upon complaint by a truant officer and conviction thereof, be punished by a fine of not more than twenty dollars: *provided, however*, that no physical or mental condition which is capable of correction, or which renders the child a fit subject for special instruction at public charge in institutions other than the public day schools, shall avail as a defence under the provisions of this section unless it shall be made to appear that the defendant has employed all reasonable measures for the correction of the condition, or the suitable instruction of the child. Whoever induces or attempts to induce a child to absent himself unlawfully from school, or employs or harbors a child who, while school is in session, is absent unlawfully from school shall be punished by a fine of not more than fifty dollars. [*Approved May 11, 1906.*

Proviso.

[1913, 779, § 1.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

R. L. 44, § 1, etc., amended.

SECTION 1. [*Amended by 1915, 81, Gen., infra.*] Section one of chapter forty-four of the Revised Laws, as amended by chapter three hundred and twenty of the acts of the year nineteen hundred and five and by chapter three hundred and eighty-three of the acts of the year nineteen hundred and six, is hereby further amended by striking out the said section and inserting in place thereof the following: — *Section 1.* Every child between seven and fourteen years of age, every child under sixteen years of age who does not possess such ability to read, write and spell in the English language as is required for the completion of the fourth grade of the public schools of the city or town in which he resides, and every child under sixteen years of age who has not received an employment certificate as provided in this act and is not engaged in some regular employment or business for at least six hours per day or has not the written permission of the superintendent of schools of the city or town in which he resides to engage in profitable employment at home, shall attend a public day school in said city or town or some other day school approved by the school committee, during the entire time the public schools are in session, subject to such exceptions as are provided for in sections four, five and six of this chapter and in section three of chapter forty-two of the Revised Laws, as amended by chapter four hundred and thirty-three of the acts of the year nineteen hundred and two, and by chapter five hundred and thirty-seven of the acts of the year nineteen hundred and eleven; but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable, or who is being otherwise instructed in a manner approved in advance by the superintendent of schools or the school committee. The superintendent of schools, or teachers in so far as authorized by said superintendent or by the school committee, may excuse cases of necessary absence for other causes not exceeding five day sessions or ten half-day sessions in any period of six months. For the purposes of this section, school committees shall approve a private school only when the instruction in all the studies required by law is in the English language, and when they are satisfied that such

School attendance of certain children compulsory.

Approval of private schools.

instruction equals in thoroughness and efficiency, and in the progress made therein, the instruction in the public schools in the same city or town; but they shall not refuse to approve a private school on account of the religious teaching therein. [*Approved June 13, 1913.*

[1915, 81, § 1, Gen.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

R. L. 44, § 1, amended.

SECTION 1. Section one of chapter forty-four of the Revised Laws, as amended by chapter three hundred and twenty of the acts of the year nineteen hundred and five, by chapter three hundred and eighty-three of the acts of the year nineteen hundred and six, and by section one of chapter seven hundred and seventy-nine of the acts of the year nineteen hundred and thirteen, is hereby further amended by striking out, in the thirtieth line, the word "five," and inserting in place thereof the word: — seven, — and by striking out the word "ten," in the same line, and inserting in place thereof the word: — fourteen, — so as to read as follows: — *Section 1.* Every child between seven and fourteen years of age, every child under sixteen years of age who does not possess such ability to read, write and spell in the English language as is required for the completion of the fourth grade of the public schools of the city or town in which he resides, and every child under sixteen years of age who has not received an employment certificate as provided in this act and is not engaged in some regular employment or business for at least six hours per day or has not the written permission of the superintendent of schools of the city or town in which he resides to engage in profitable employment at home, shall attend a public day school in said city or town or some other day school approved by the school committee, during the entire time the public schools are in session, subject to such exceptions as are provided for in sections four, five and six of this chapter and in section three of chapter forty-two of the Revised Laws, as amended by chapter four hundred and thirty-three of the acts of the year nineteen hundred

School attendance of certain children compulsory.

and two, and by chapter five hundred and thirty-seven of the acts of the year nineteen hundred and eleven; but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable, or who is being otherwise instructed in a manner approved in advance by the superintendent of schools or the school committee. The superintendent of schools or teachers in so far as authorized by said superintendent or by the school committee, may excuse cases of necessary absence for other causes not exceeding seven day sessions or fourteen half-day sessions in any period of six months. For the purposes of this section, school committees shall approve a private school only when the instruction in all the studies required by law is in the English language, and when they are satisfied that such instruction equals in thoroughness and efficiency, and in the progress made therein, the instruction in the public schools in the same city or town; but they shall not refuse to approve a private school on account of the religious teaching therein. [*Approved March 18, 1915.*

Attendance at schools in places other than residence of parents or guardians regulated. 1857, 132. G. S. 41, § 7. 1876, 186, § 2. P. S. 47, § 8. 1894, 498, § 8. 1896, 382. 1898, 496, § 8. 103 Mass. 104. 164 Mass. 430.

Section 4. [*Amended by 1905, 375; 1911, 268, § 2; 1913, 779, § 4; 1915, 78, Gen., infra.*] If a child resides in a city or town other than that of the legal residence of his parent or guardian for the sole purpose of there attending school, his parent or guardian shall be liable to said city or town for his tuition while attending school in said city or town to an amount equal to the average expense of such school for each pupil during the preceding year, for a period equal to the time during which the child so attends, unless the city or town in which the parent or guardian resides is required by section three of chapter forty-two to pay for said tuition. For the tuition in the public schools in any city or town of a child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Lyman and industrial schools, or kept under the control of either of said boards in said city or town, the commonwealth shall pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under the control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town, fifty cents for each week of five days, or major part thereof, of attendance of every such child in the public schools. For the transportation to and from a public school of any child whose tuition is payable by the commonwealth or by the city of Boston under the provisions of this section, the commonwealth or the city of Boston, as the case may be, shall pay to the city or town furnishing such transportation, for each week of

five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the commonwealth and with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter. The money received by said cities and towns under the provisions of this section shall be applied to the support of schools. For the tuition in the public schools in any town of less than ten thousand inhabitants of any child between the ages of five and fifteen years not theretofore resident in such town, who is an inmate of an institution containing more than six inmates, said town may recover from said institution the extra school expense incurred, as may be determined jointly by the school committee of said town and the trustees or managers of said institution, or, in case of disagreement between said school committee and said trustees or managers, as may be decreed by the probate court; but no demand shall be made upon said trustees or managers without a vote of the town instructing the school committee to that effect.

[1905, 375.]

AN ACT RELATIVE TO THE RIGHT OF CHILDREN OF NON-RESIDENT PARENTS TO ATTEND PUBLIC SCHOOLS.

R. L. 44, § 4, amended.

SECTION 1. [*Amended by 1911, 268, § 2; 1913, 779, § 4; 1915, 78, Gen., infra.*] Section four of chapter forty-four of the Revised Laws is hereby amended by striking out all after the word "guardian", in the second line, to and including the word "to", where said word first occurs in the fifth line, and inserting in place thereof the words: — and in the opinion of the school committee of the said city or town such residence is for the purpose of there attending school in preference to the place of the legal residence of his parent or guardian, the said city or town may recover from the parent or guardian for the tuition of said child, while there attending school, subject to appeal to the probate court, — so as to read as follows: — *Section 4.* If a child resides in a city or town other than that of the legal residence of his parent or guardian, and in the opinion of the school committee of the said city or town such residence is for the purpose of there attending school in preference to the place of the legal residence of his parent or guardian, the said city or town may recover from the parent or guardian for the tuition of said child, while there attending school, subject to appeal to the probate court, an amount equal to the average expense of such school for each pupil during the preceding year, for a period equal to the time during which the child so attends, unless the city or town in which the parent or guardian resides is required by section three of chapter forty-two to pay for said tuition. For the tuition in the public schools in any city or town of a child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Lyman and industrial schools, or kept under the control of either of said boards in said city or town, the commonwealth shall pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under the control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town, fifty cents for each week of five days, or major part thereof, of attendance of every such child in

Attendance of children at schools in places other than residence of parents or guardians regulated.

the public schools. For the transportation to and from a public school of any child whose tuition is payable by the commonwealth or by the city of Boston under the provisions of this section, the commonwealth or the city of Boston, as the case may be, shall pay to the city or town furnishing such transportation, for each week of five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the commonwealth and with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter. The money received by said cities and towns under the provisions of this section shall be applied to the support of schools. For the tuition in the public schools in any town of less than ten thousand inhabitants of any child between the ages of five and fifteen years not theretofore resident in such town, who is an inmate of an institution containing more than six inmates, said town may recover from said institution the extra school expense incurred, as may be determined jointly by the school committee of said town and the trustees or managers of said institution, or, in case of disagreement between said school committee and said trustees or managers, as may be decreed by the probate court; but no demand shall be made upon said trustees or managers without a vote of the town instructing the school committee to that effect.

Section 2. This act shall take effect upon its passage. [*Approved May 5, 1905.*

[1911, 268, § 2.]

An Act relative to attendance upon the public schools.

R. L. 44, § 4, etc., amended.

Section 2. [*Amended by 1913, 779, § 4; 1915, 78, Gen., infra.*] Section four of said chapter forty-four, as amended by chapter three hundred and seventy-five of the acts of the year nineteen hundred and five, is hereby further amended by inserting after the word "child", in the second line, the words: — whose parent or guardian has a legal residence within the commonwealth, — and by inserting after the words "pay for said tuition", in the fifteenth line, the words: — A child whose parent or guardian has no legal residence in the commonwealth may be permitted, in the discretion of the school committee in charge, to attend the schools of any city or town on payment as tuition of an amount not less than the average cost of education per pupil in the school which the said child attends, — so as to read as follows: — *Section 4.* If a child, whose parent or guardian has a legal residence within the commonwealth, resides in a city or town other than that of the legal residence of his parent or guardian, and in the opinion of the school committee of the said city or town such residence is for the purpose of there attending school in preference to the place of the legal residence of his parent or guardian, the said city or town may recover from the parent or guardian for the tuition of said child, while there attending school, subject to appeal to the probate court, an amount equal to the average expense of such school for each pupil during the preceding year, for a period equal to the time during which the child so attends, unless the city or town in which the parent or guardian resides is required by section three of chapter forty-two to pay for said tuition. A child whose parent or guardian has no legal residence in the commonwealth may be permitted, in the discretion of the school committee in charge, to attend the schools

Attendance at schools in places other than residence of parents or guardians regulated, etc.

of any city or town on payment as tuition of an amount not less than the average cost of education per pupil in the school which the said child attends. For the tuition in the public schools in any city or town of a child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Lyman and industrial schools, or kept under the control of either of said boards in said city or town, the commonwealth shall pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under the control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town, fifty cents for each week of five days, or major part thereof, of attendance of every such child in the public schools. For the transportation to and from a public school of any child whose tuition is payable by the commonwealth or by the city of Boston under the provisions of this section, the commonwealth or the city of Boston, as the case may be, shall pay to the city or town furnishing such transportation, for each week of five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the commonwealth and with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter. The money received by said cities and towns under the provisions of this section shall be applied to the support of schools. For the tuition in the public schools in any town of less than ten thousand inhabitants of any child between the ages of five and fifteen years not theretofore resident in such town, who is an inmate of an institution containing more than six inmates, said town may recover from said institution the extra school expense incurred, as may be determined jointly by the school committee of said town and the trustees or managers of said institution, or, in case of disagreement between said school committee and said trustees or managers as may be decreed by the probate court; but no demand shall be made upon said trustees or managers without a vote of the town instructing the school committee to that effect. [*Approved April 10, 1911.*

[1913, 779, § 4.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

SECTION 4. [*Amended by 1915, 78, Gen., infra.*] Section four of said chapter forty-four, as amended by chapter three hundred and seventy-five of the acts of the year nineteen hundred and five and by section two of chapter two hundred and sixty-eight of the acts of the year nineteen hundred and eleven, is hereby further amended by striking out the said section and inserting in place thereof the following: — *Section 4.* It shall be the duty of the school committee of each city or town to provide for the attendance of all children of school age resident therein and to enforce the same under the provisions of section one of this chapter. But if a child who is required by the provisions of said section one to attend school resides temporarily in a city or town other than that of the legal residence of the parent or guardian for the especial purpose of attending school there in preference to the place of such legal residence, the said city or town may, for the tuition of such child during the period of such attendance, recover from the parent

R. L. 44, § 4, etc., amended.

Attendance at schools in places other than residence of parents, etc.

or guardian, whether he resides within or without the commonwealth, a sum equal to the average expense per pupil of such school for that period, unless under the provisions of section three of chapter forty-two of the Revised Laws, as amended by chapter four hundred and thirty-three of the acts of the year nineteen hundred and two, and by chapter five hundred and thirty-seven of the acts of the year nineteen hundred and eleven, or of section five of chapter forty-four of the Revised Laws, such tuition is recoverable from the city or town in which the parent or guardian resides.

Tuition. A child who is not required by the provisions of section one of this chapter to attend school may, in the discretion of the school committee, be required as a condition of admission to a school in a city or town other than that in which his parent or guardian has a legal residence, to pay as tuition a sum equal to the average expense per pupil in the school which such child seeks to enter, the same to be paid annually, semi-annually or at other periods in advance as the school committee may determine.

Tuition. For the tuition in the public schools in any city or town of any child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Massachusetts training schools, or kept under the control of either of said boards in such city or town, the commonwealth shall pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under the control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town fifty cents for each week of five days, or major part thereof, of attendance of every such child in the public schools, or, if the school committee of said city or town so desires, an amount equal to the average expense for each pupil of such school during the preceding year, for a period equal to the time during which the child so attends.

Transportation. For the transportation to and from a public school of any child whose tuition is payable by the commonwealth or by the city of Boston under the provisions of this section, the commonwealth or the city of Boston, as the case may be, shall pay to the city or town furnishing such transportation, for each week of five days or major part thereof, an amount equal to the average amount for each child paid by said city or town per week for the transportation of children to and from school over the route by which such child is conveyed. Settlements of the accounts of the several cities and towns with the commonwealth and with the city of Boston shall be made annually on the first day of April, and the amounts found due shall be paid within three months thereafter. The money received by said cities and towns under the provisions of this section shall be applied to the support of schools. For the tuition in the public schools in any town of less than ten thousand inhabitants of any child between the ages of five and fifteen years not theretofore resident in such town, who is an inmate of an institution containing more than six inmates, such town may recover from said institution the additional expense incurred, as may be determined jointly by the school committee of said town and the trustees or managers of said institution, or, in case of disagreement between said school committee and said trustees or managers, as may be decreed by the probate court; but no demand shall be made upon said trustees or managers without a vote of the town instructing the school committee to that effect. [*Approved June 13, 1913.*

Settlement of accounts, etc.

[1915, 78, Gen.]

An Act relative to the school attendance of minors.

Section four of chapter forty-four of the Revised Laws, as amended by chapter three hundred and seventy-five of the acts of the year nineteen hundred and five, and by section two of chapter two hundred and sixty-eight of the acts of the year nineteen hundred and eleven, and by section four of chapter seven hundred and seventy-nine of the acts of the year nineteen hundred and thirteen, is hereby further amended by striking out the word "fifty", in the forty-second line and inserting in place thereof the word: — seventy-five, and by striking out, after the word "schools" in the forty-fourth line the words "or, if the school committee of said city or town so desires, an amount equal to the average expense for each pupil of such school during the preceding year, for a period equal to the time during which the child so attends", — so that the third paragraph of the section will read as follows: — R. L. 44, § 4, etc., amended.

For the tuition in the public schools in any city or town of any child between the ages of five and fifteen years who shall be placed elsewhere than in his own home by the state board of charity, or by the trustees of the Massachusetts training schools, or kept under the control of either of said boards in such city or town, the commonwealth shall pay to said city or town, and for such tuition of any such child so placed by the trustees for children of the city of Boston, or so kept under control of said trustees, the city of Boston from its appropriation for school purposes, shall pay to said city or town, seventy-five cents for each week of five days, or major part thereof, of attendance of every such child in the public schools. [*Approved March 18, 1915.* Rate of reimbursement for tuition to be seventy-five cents per week for each child.

TRUANTS AND TRUANT SCHOOLS.

R. L. CHAPTER 46.

OF TRUANTS AND TRUANT SCHOOLS.

Truant schools. 1873, 262, § 5. 1881, 144. P. S. 48, § 14. 1884, 155. 1886, 282. 1890, 309. 1894, 498, § 16. 1895, 216. 1896, 360. 1898, 496, § 22. 1901, 299.

Section 1. [*Amended by 1902, 256. Superseded by 1913, 779, § 5, infra. See also 1908, 103, infra.*] The county commissioners of each county, except the counties of Barnstable, Berkshire, Franklin, Hampshire, Dukes County and Nantucket, shall maintain either separately or jointly with the commissioners of other counties as hereinafter provided, in a suitable place, not at or near a penal institution, a truant school for the instruction and training of children committed thereto as habitual truants, absentees or school offenders. The county commissioners of two or more counties may, at the expense of said counties, establish and maintain a union truant school which shall be organized and controlled by the chairmen of the county commissioners of said counties. The chairmen of the respective boards of county commissioners of the counties of Norfolk, Bristol and Plymouth, having the management of the Norfolk, Bristol and Plymouth union truant school, shall each be paid the sum of one hundred dollars annually by said counties, respectively. The county commissioners of the counties of Barnstable, Berkshire, Franklin, Hampshire, Dukes County and Nantucket shall assign a truant school established by law as the place for the instruction and training of children committed within their respective counties as habitual truants, absentees or school offenders, and shall pay for their support in said school such reasonable sum as the county commissioners having control of said school may determine. For the purposes of this chapter the parental school of the city of Boston shall be deemed the county truant school of the county of Suffolk, and commitments from the towns of Revere and Winthrop and the city of Chelsea shall be to the truant school for the county of Middlesex. The city or town from which an habitual truant, absentee or school offender is committed to a county truant school shall pay to the county within which it is located one dollar a week towards his support; but the towns of Revere and Winthrop and the city of Chelsea shall pay to the county of Middlesex, for the support of each child committed to the truant school of said county, two dollars and fifty cents a week, and such additional sums for each child as shall cover the actual cost of maintenance.

[1906, 148.]

AN ACT TO CHANGE THE NAME OF THE ESSEX COUNTY TRUANT SCHOOL TO THE ESSEX COUNTY TRAINING SCHOOL.

Name changed.

Section 1. The Essex County Truant School at Lawrence shall hereafter be called the Essex County Training School.

Section 2. This act shall take effect upon its passage. [*Approved March 9, 1906.*

[1907, 194.]

AN ACT TO CHANGE THE NAME OF THE WORCESTER COUNTY TRUANT SCHOOL TO THE WORCESTER COUNTY TRAINING SCHOOL.

Name changed.

SECTION 1. The Worcester County Truant School at West Boylston, shall hereafter be called the Worcester County Training School.

SECTION 2. This act shall take effect upon its passage. [*Approved March 12, 1907.*

[1908, 103.]

AN ACT TO CHANGE THE NAME OF CERTAIN TRUANT SCHOOLS.

Certain truant schools, names changed.

SECTION 1. The truant school at Springfield in the county of Hampden, the truant school at Chelmsford in the county of Middlesex, and the truant school at Walpole in the county of Norfolk shall hereafter be called, respectively, the Hampden county training school, the Middlesex county training school, and the Norfolk, Bristol and Plymouth union training school; and any school hereafter established pursuant to section one of chapter forty-six of the Revised Laws relative to truants and truant schools shall be called a training school. All laws now or hereafter in force relative to truants and truant schools shall apply to training schools and to commitments thereto.

SECTION 2. This act shall take effect upon its passage. [*Approved February 24, 1908.*

[1913, 779, § 5.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

R. L. 46, § 1, etc., amended.

SECTION 5. Section one of chapter forty-six of the Revised Laws, as amended by chapter two hundred and fifty-six of the acts of the year nineteen hundred and two, is hereby further amended by striking out the said section

Establishment, etc., of training schools by counties.

and inserting in place thereof the following: — *Section 1.* The county commissioners of each county, except the counties of Barnstable, Berkshire, Franklin, Hampshire, Dukes County and Nantucket, shall maintain either separately or jointly with the commissioners of other counties as hereinafter provided, in a suitable place, not at or near a penal institution, a school for the instruction and training of children committed thereto as habitual truants, absentees or school offenders. The county commissioners of two or more counties may, at the expense of said counties, establish and maintain a union school which shall be organized and controlled by the chairmen of the county commissioners of said counties. The chairmen of the respective boards of county commissioners of the counties of Norfolk, Bristol, and Plymouth, having the management of the Norfolk, Bristol and Plymouth union training school, shall each be paid the sum of one hundred dollars annually by said counties, respectively. The county commissioners of the counties of Barnstable, Berkshire, Franklin, Hampshire, Dukes County and Nantucket shall assign a training school established by law as the place for the instruction and training of children committed within their respective counties as habitual truants, absentees or school offenders, and shall pay for their support in said school such reasonable sum as the county commissioners having control of said school may determine. For the purposes of this chapter the parental school of the city of Boston shall be deemed the county training school of the county of Suffolk, and commitments from the towns of Revere and Winthrop and the city of Chelsea shall be to the training school for the county of Middlesex.

The city or town from which an habitual truant, absentee or school offender is committed to a county training school shall pay to the county within which it is situated one dollar a week toward his support, and reports of the condition and progress of its pupils in said school shall be sent each month to the superintendent of schools of such

city or town; but the towns of Revere and Winthrop and the city of Chelsea shall pay to the county of Middlesex, for the support of each child committed to the training school of said county, two dollars and fifty cents a week, and such additional sums for each child as will cover the actual cost of maintenance. [*Approved June 13, 1913.*

Truant schools, visitation of. 1898, 496, § 23.

SECTION 2. County truant schools shall be subject to visitation by the board of education and by the state board of charity, and said boards shall report thereon annually to the general court.

Habitual truants. 1873, 262, § 3. P. S. 48, § 12. 1889, 249, § 2. 1894, 498, § 21. 1898, 496, § 24

SECTION 3. [*Revised by 1903, 330, § 1; 1904, 220, § 1, infra; and further superseded in part by 1906, 389, infra; 1908, 103, supra. Superseded by 1913, 779, § 6.*] A child between seven and fourteen years of age who wilfully and habitually absents himself from school contrary to the provisions of section one of chapter forty-four shall be deemed to be an habitual truant, and, upon complaint by a truant officer and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven of this chapter.

[1903, 330, § 1.]

AN ACT RELATIVE TO THE INSTRUCTION AND TRAINING OF HABITUAL TRUANTS, ABSENTEES AND SCHOOL OFFENDERS.

R. L. 46, § 3, amended.

SECTION 1. [*Superseded by 1904, 220, § 1; 1913, 779, § 6, infra.*] Section three of chapter forty-six of the Revised Laws is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 3.* A child between seven and fourteen years of age who wilfully and habitually absents himself from school contrary to the provisions of section one of chapter forty-four shall be deemed to be an habitual truant, and, unless placed on probation as provided in section seven of this chapter, may upon complaint by a truant officer and conviction thereof, if a boy, be committed to a county truant school for not more than two years, and, if a girl, to the state industrial school for girls; but if the girl is under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved May 7, 1903.*

Habitual truants, commitment of, etc.

[1904, 220, § 1.]

AN ACT RELATIVE TO THE COMMITMENT AND DISCHARGE OF HABITUAL TRUANTS, ABSENTEES AND SCHOOL OFFENDERS.

R. L. 46, § 3, etc., amended.

SECTION 1. [*Superseded in part by 1906, 389, infra; 1908, 103, § 1, supra. Superseded by 1913, 779, § 6, infra.*] Section three of chapter forty-six of the Revised Laws, as amended by section one of chapter three

hundred and thirty of the acts of the year nineteen hundred and three, is hereby further amended by striking out the words "for not more than two years", in the eighth and ninth lines, so as to read as follows: — *Section 3.* A child between seven and fourteen years of age who wilfully and habitually absents himself from school contrary to the provisions of section one of chapter forty-four shall be deemed to be an habitual truant, and, unless placed on probation as provided in section seven of this chapter, may, upon complaint by a truant officer and conviction thereof, if a boy, be committed to a county truant school, and, if a girl, to the state industrial school for girls; but if the girl is under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved April 9, 1904.*

Habitual truants, commitment of, etc.

See § 4 infra for remainder of act. For provisions as to release after arrest, see 1908, 286, p. 121, infra.

[1906, 389.]

AN ACT TO PROVIDE FOR THE COMMITMENT OF HABITUAL TRUANTS, HABITUAL ABSENTEES AND HABITUAL SCHOOL OFFENDERS.

Certain offenders to be committed to truant schools.

SECTION 1. [*Superseded in part by 1908, 103, supra.*] Habitual truants, habitual absentees and habitual school offenders shall be committed to truant schools, however named, for the instruction and training of children, and now provided for by the several counties, and not to any other institution or place.

Not to apply to a certain institution.

SECTION 2. This act shall not apply to the Plummer Farm School of Reform for Boys, at Winter Island in Salem.

Repeal.

SECTION 3. So much of any act as is inconsistent herewith is hereby repealed. [*Approved May 12, 1906.*

[1913, 779, § 6.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

R. L. 46, § 3, etc., amended.

SECTION 6. Section three of said chapter forty-six, as amended by chapter three hundred and thirty of the acts of the year nineteen hundred and three and by chapter two hundred and twenty of the acts of the year nineteen hundred and four, is hereby further amended by striking out the said section and inserting in place thereof the

following: — *Section 3.* A child between seven and sixteen years of age who wilfully and habitually absents himself from school contrary to the provisions of section one of chapter forty-four of the Revised Laws, as amended, shall be deemed to be an habitual truant, and, unless placed on probation as provided in section seven of this chapter, may, upon complaint by an attendance officer and conviction thereof, be committed to a county training school. [*Approved June 13, 1913.*

Habitual truants, commitment, etc.

Section 4. [*Revised by 1903, 330, § 2, infra; 1904, 220, § 2, infra; and further superseded by 1906, 389; 1908, 103, supra. Superseded by 1913, 779, § 7, infra.*] A child between seven and sixteen years of age who may be found wandering about in the streets or public places of any city or town, having no lawful occupation, habitually not attending school, and growing up in idleness and ignorance, shall be deemed to be an habitual absentee, and, upon complaint by a truant officer or any other person and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years or to the Lyman school for boys, and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven.

Habitual absentees. 1898, 496, § 25.

[1903, 330, § 2.]

An Act relative to the instruction and training of habitual truants, absentees and school offenders.

Section 2. [*Superseded by 1904, 220, § 2, infra.*] Section four of said chapter is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 4.* A child between seven and sixteen years of age who may be found wandering about in the streets or public places of any city or town, having no lawful occupation, habitually not attending school, and growing up in idleness and ignorance, shall be deemed to be an habitual absentee, and, unless placed on probation as provided in section seven, may, upon complaint by a truant officer or any other person and conviction thereof, if a boy, be committed to a county truant school for not more than two years, or to the Lyman school for boys, and, if a girl, to the state industrial school for girls; but if the girl be under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved May 7, 1903.*

R. L. 46, § 4, amended.

Habitual absentees, commitment of, etc.

[1904, 220, § 2.]

An Act relative to the commitment and discharge of habitual truants, absentees and school offenders.

Section 2. [*Superseded in part by 1906, 389, supra; 1908, 103, supra.*] Section four of chapter forty-six of the Revised Laws, as amended by section two of said chapter three hundred and thirty, is hereby further amended by striking out the words "for not more than two years", in the tenth

R. L. 46, § 4, etc., amended.

Habitual absentees, commitment of, etc.

and eleventh lines, so as to read as follows: — *Section 4.* A child between seven and sixteen years of age who may be found wandering about in the streets or public places of any city or town, having no lawful occupation, habitually not attending school, and growing up in idleness and ignorance, shall be deemed to be an habitual absentee, and, unless placed on probation as provided in section seven, may, upon complaint by a truant officer or any other person and conviction thereof, if a boy, be committed to a county truant school, or to the Lyman school for boys, and, if a girl, to the state industrial school for girls; but if the girl be under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved April 9, 1904.*

[1913, 779, § 7.]

An Act relative to school attendance and to the employment of minors.

R. L. 46, § 4, etc., amended.

Section 7. Section four of said chapter forty-six, as amended by chapter three hundred and thirty of the acts of the year nineteen hundred and three and by chapter two hundred and twenty of the acts of the year nineteen hundred and four, is hereby further amended by striking out the said section and inserting in place thereof the following: — *Section 4.* A child between seven and sixteen years of age who may be found wandering about in the streets or public places of any city or town, having no lawful occupation, habitually not attending school and growing up in idleness and ignorance, shall be deemed to be an habitual absentee, and, unless placed on probation as provided in section seven of said chapter forty-six may, upon complaint by an attendance officer or any other person, and conviction thereof, be committed to a county training school. [*Approved, June 13, 1913.*

Habitual absentees, commitment, etc.

Habitual school offenders. 1889, 249, § 2. 1894, 493, § 21. 1898, 496, § 26.

Section 5. [*Revised by 1903, 330, § 3; 1904, 220, § 3, infra; and further superseded in part by 1906, 389; 1908, 103, supra. Superseded by 1913, 779, § 8, infra.*] A child under fourteen years of age who persistently violates the reasonable regulations of the school which he attends, or otherwise persistently misbehaves therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed to be an habitual school offender, and, upon complaint by a truant officer and conviction thereof, may, if a boy, be committed to a county truant school for not more than two years or to the Lyman school for boys, and, if a girl, to the state industrial school for girls, unless such child is placed on probation as provided in section seven.

[1903, 330, § 3.]

An Act relative to the instruction and training of habitual truants, absentees and school offenders.

Section 3. [*Superseded by 1904, 220, § 3, infra.*] Section five of said chapter is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 5.* A child under fourteen years of age who persistently violates the reasonable regulations of the school which he attends, or otherwise persistently misbehaves therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed to be an habitual school offender, and, unless placed on probation as provided in section seven, may, upon complaint by a truant officer and conviction thereof, if a boy, be committed to a county truant school for not more than two years, or to the Lyman school for boys, and, if a girl, to the state industrial school for girls; but if the girl be under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved May 7, 1903.*

R. L. 46, § 5, amended.

Habitual school offenders, commitment of, etc.

[1904, 220, § 3.]

An Act relative to the commitment and discharge of habitual truants, absentees and school offenders.

Section 3. [*Superseded in part by 1906, 389, supra; 1908, 103, supra; 1913, 779, § 8, infra. See 1903, 330, § 3, supra.*] Section five of chapter forty-six of the Revised Laws, as amended by section three of said chapter three hundred and thirty, is hereby further amended by striking out the words "for not more than two years", in the ninth and tenth lines, so as to read as follows: — *Section 5.* A child under fourteen years of age who persistently violates the reasonable regulations of the school which he attends, or otherwise persistently misbehaves therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed to be an habitual school offender, and, unless placed on probation as provided in section seven, may, upon complaint by a truant officer and conviction thereof, if a boy, be committed to a county truant school, or to the Lyman school for boys, and, if a girl, to the state industrial school for girls; but if the girl be under twelve years of age she shall be committed to the custody of the state board of charity, if they so request, for not more than two years. [*Approved April 9, 1904.*

R. L., 46 § 5, etc., amended.

Habitual school offenders, commitment of, etc.

[1913, 779, § 8.]

An Act relative to school attendance and to the employment of minors.

Section 8. Section five of said chapter forty-six, as amended by chapter three hundred and thirty of the acts of the year nineteen hundred and three and by chapter two hundred and twenty of the acts of the year nineteen hundred and four, is hereby further amended by striking out the said section and inserting in place thereof the

R. L. 46, § 5, etc., amended.

Habitual school offenders, commitment, etc.

following: — *Section 5.* A child under sixteen years of age who persistently violates the reasonable regulations of the school which he attends, or otherwise persistently misbehaves therein, so as to render himself a fit subject for exclusion therefrom, shall be deemed to be an habitual school offender, and, unless placed on probation as provided in section seven of said chapter forty-six may, upon complaint by an attendance officer and conviction thereof, be committed to a county training school. [*Approved June 13, 1913.*

Support of inmates of truant schools. 1898, 496, § 27.

Section 6. [*Superseded by 1913, 779, § 9, infra.*] The court or magistrate by whom a child has been committed to a county truant school may make an order relative to the payment by his parents to the county of the cost of his support while in said school, and may from time to time revise and alter such order or make a new order as the circumstances of the parents may justify.

[1913, 779, § 9.]

An Act relative to school attendance and to the employment of minors.

R. L. 46, § 6, amended.

Section 9. Said chapter forty-six is hereby further amended by striking out section six and inserting in place thereof the following: — *Section 6.* The court or magistrate by whom a child has been committed to a county training school may make an order relative to the payment by his parents to the county of the cost of his support while in said school, and may from time to time revise and alter such order or make a new order as the circumstances of the parents may justify. [*Approved June 13, 1913.*

Support of inmates of truant schools.

Placing truants on probation. 1898, 496, § 28.

Section 7. A court or magistrate by whom a child has been convicted of an offence under the provisions of this chapter may place such child on probation under the oversight of a truant officer of the city or town in which the child resides, or of a probation officer of said court, for such period and upon such conditions as said court or magistrate may deem best; and if, within such period, the child violates the conditions of his probation, such truant

officer or probation officer may, without warrant or other process, take the child before the court, and the court may thereupon sentence him or may make any other lawful disposition of the case.

For authority to appoint probation officers, see 1908, 637, p. 207, infra.

Permits to be at liberty. 1896, 514. 1898, 496, § 29; 580, § 1.

Section 8. [*Amended by 1904, 220, §§ 4, 5, infra; and further superseded in part by 1908, 103, supra. Superseded by 1913, 779, § 10, infra.*] County commissioners, if they think it will be for the best interest of any child who has been committed to a county truant school under their control, after notice and an opportunity to be heard has been given to the superintendent of schools or, if there is no superintendent, to the school committee of the city or town from which such child was committed to said school, may permit him to be at liberty upon such conditions as said commissioners may deem best; or, with the approval of the court which imposed the sentence, they may discharge him from said school; and upon such parole or discharge they shall make an entry upon their records of the name of such child, the date of parole or discharge and the reason therefor; and a copy of such record shall be transmitted to the court or magistrate by whom such child was committed and to the school committee of the city or town from which he was committed. If such child, in the opinion of said commissioners, violates the conditions of his parole at any time previous to the expiration of the term for which he was committed to said school, such parole may be revoked. If a superintendent of schools or a school committee furnishes evidence satisfactory to said commissioners of the violation by a child of the conditions of his parole, said commissioners shall revoke such parole, and may thereupon issue an order directed to the truant or police officers of any city or town to arrest such child wherever found and return him to said school. Such officer shall arrest such child and return him to said school, where he shall be held, subject to the provisions of this chapter, for the residue of the term of the original sentence. The expense of such arrest and return, so far as approved by the commissioners, shall be paid by the county or counties maintaining said school. Releases from the parental school of the city of Boston shall be governed by the provisions of chapter five hundred and fourteen of the acts of the year eighteen hundred and ninety-six, and shall be made by the trustees for children who shall have and exercise the powers given by said chapter to the institutions commissioner of said city.

[1904, 220, § 4.]

An Act relative to the commitment and discharge of habitual truants, absentees and school offenders.

R. L. 46, § 8, amended.

Section 4. [*Superseded in part by 1908, 103; superseded by 1913, 779, § 10, infra.*] Section eight of said chapter forty-six is hereby amended by inserting after the word "school", where that word first occurs in the twenty-ninth line, the words: — A child who has been committed to a county truant school, whether he be confined at the county truant school or on parole as provided in this section, shall be discharged from the custody and care of such school upon his becoming sixteen years of age, — so as to

Permits to be at liberty may be issued in certain cases, etc.

read as follows: — *Section 8.* County commissioners, if they think it will be for the best interest of any child who has been committed to a county truant school under their control, after notice and an opportunity to be heard has been given to the superintendent of schools or, if there is no superintendent, to the school committee of the city or town from which such child was committed to said school, may permit him to be at liberty upon such conditions as said commissioners may deem best; or, with the approval of the court which imposed the sentence, they may discharge him from said school; and upon such parole or discharge they shall make an entry upon their records of the name of such child, the date of parole or discharge and the reason therefor; and a copy of such record shall be transmitted to the court or magistrate by whom such child was committed and to the school committee of the city or town from which he was committed. If such child, in the opinion of said commissioners, violates the conditions of his parole at any time previous to the expiration of the term for which he was committed to said school, such parole may be revoked. If a superintendent of schools or a school committee furnishes evidence satisfactory to said commissioners of the violation by a child of the conditions of his parole, said commissioners shall revoke such parole, and may thereupon issue an order directed to the truant or police officers of any city or town to arrest such child wherever found and return him to said school. Such officer shall arrest such child and return him to said school, where he shall be held, subject to the provisions of this chapter, for the residue of the term of the original sentence. The expense of such arrest and return, so far as approved by the commissioners, shall be paid by the county or counties maintaining said school. A child who has been committed to a county truant school, whether he be confined at the county truant school or on parole as provided in this section, shall be discharged from the custody and care of such school upon his becoming sixteen years of age. Releases from the parental school of the city of Boston shall be governed by the provisions of chapter five hundred and fourteen of the acts of the year eighteen hundred and ninety-six, and shall be made by the trustees for children who shall have and exercise the powers given by said chapter to the institutions commissioner of said city. [*Approved April 9, 1904.*

Parole may be revoked, etc.

To be discharged at the age of sixteen years.

Releases from parental school of Boston.

For method of keeping attendance record in its bearing upon this chapter, see 1912, 369, § 9.

[1913, 779, § 10.]

An Act relative to school attendance and to the employment of minors.

R. L. 46, § 8, etc., amended.

Section 10. Section eight of said chapter forty-six, as amended by section four of chapter two hundred and twenty of the acts of the year nineteen hundred and four, is hereby further amended by striking out the said section and inserting in place thereof the following: — *Section 8.* County commissioners, if they think it will be for the best

Permits to be at liberty may be issued in certain cases, etc.

interest of any child who has been committed to a county training school under their control, after notice and an opportunity to be heard has been given to the superintendent of schools, or, if there is no superintendent, to the school committee of the city or town from which such child was committed to said school, may permit him to be at liberty upon such conditions as said commissioners may deem best; or, with the approval of the court which imposed the sentence, they may discharge him from said school; and upon such parole or discharge they shall make an entry upon their records of the name of such child, the date of parole or discharge and the reason therefor; and a copy of such record shall be transmitted to the court or magistrate by whom such child was committed and to the school committee of the city or town from which he was committed.

Paroles may be revoked, etc

If such child, in the opinion of said commissioners, violates the conditions of his parole at any time previous to the expiration of the term for which he was committed to said school, such parole may be revoked. If a superintendent of schools or a school committee furnishes evidence satisfactory to said commissioners of the violation by a child of the conditions of his parole, said commissioners shall revoke such parole, and may thereupon issue an order directed to the attendance or police officers of any city or town to arrest such child wherever found and return him to said school. Such officer shall arrest such child and return him to said school, where he shall be held, subject to the provisions of this chapter, for the residue of the term of the original sentence.

Expenses of arrest, how paid.

The expense of such arrest and return, so far as approved by the commissioners, shall be paid by the county or counties maintaining said school.

To be discharged at sixteen years of age.

A child who has been committed to a county training school, whether he be confined at the county training school or be on parole as provided in this section, shall be discharged from the custody and care of such school upon his becoming sixteen

Releases from Boston parental school.

years of age. Releases from the parental school of the city of Boston shall be governed by the provisions of chapter five hundred and fourteen of the acts of the year eighteen hundred and ninety-six, and shall be made by the trustees for children who shall have and exercise the powers given by said chapter to the institutions commissioner of said city. [*Approved June 13, 1913.*

Temporary release from truant school. 1899, 201.

Section 9. [*Amended by 1903, 308, infra.*] If a near relation of a child who is confined on a sentence as an habitual truant, habitual absentee or habitual school offender dies or is seriously ill, a court or trial justice which has jurisdiction of such offences may order such child to be released for a specified time, either with or without the custody of the superintendent or other officer, and may revoke, extend or otherwise modify such order. The expenses incurred in serving such order shall be approved and paid in the same manner as other expenses of the institution in which the child is confined.

[1903, 308.]

An Act relative to the temporary release of inmates of truant schools.

R. L. 46, § 9, amended.

Section 1. Section nine of chapter forty-six of the Revised Laws, is hereby amended by striking out the words "a court or trial justice which has jurisdiction of such offences", in the third and fourth lines, and inserting in place thereof the words: — any member of the board of trustees or county commissioners having charge of the institution, — so as to read as follows: — *Section 9.* If a near relation of a child who is confined on a sentence as an habitual truant, habitual absentee or habitual school offender dies or is seriously ill, any member of the board of trustees or county commissioners having charge of the institution may order such child to be released for a specified time, either with or without the custody of the superintendent or other officer, and may revoke, extend or otherwise modify such order. The expenses incurred in serving such order shall be approved and paid in the same manner as other expenses of the institution in which the child is confined.

Temporary release of inmates of truant schools.

Section 2. This act shall take effect upon its passage. [*Approved May 4, 1903.*

Section 10. [*Amended by 1903, 330, § 4, infra, and further superseded in part by 1908, 103, supra. See also 1906, 389, supra. Superseded by 1913, 779, § 11, infra.*] An inmate of a county truant school or of the parental school of the city of Boston who persistently violates the reasonable regulations thereof, or is guilty of indecent or immoral conduct, or otherwise grossly misbehaves, so as to render himself an unfit subject for retention therein, may, upon complaint by the officer in control of said school and conviction thereof, if under fifteen years of age, be committed to the Lyman school for boys; if over fifteen years of age, to the Massachusetts reformatory. Disposition of vicious inmates. 1898, 496, § 30.

[1903, 330, § 4.]

An Act relative to the instruction and training of habitual truants, absentees and school offenders.

Section 4. [*Superseded by 1913, 779, § 11, infra.*] Section ten of said chapter is hereby amended by adding at the end thereof the words: — If a girl who is committed to the custody of the state board of charity under section three, four or five of this chapter, proves unmanageable in a private family, she may be committed by the state board of charity to the state industrial school for girls, — so as to read as follows: — *Section 10.* An inmate of a county truant school or of the parental school of the city of Boston who persistently violates the reasonable regulations thereof, or is guilty of indecent or immoral conduct, or otherwise grossly misbehaves, so as to render himself an unfit subject for retention therein, may, upon complaint by the officer in control of said school and conviction thereof, if under fifteen years of age, be committed to the Lyman school for boys; if over fifteen years of age, to the Massachusetts reformatory. If a girl who is committed to the custody of the state board of charity under section three, four or five of this chapter, proves unmanageable in a private family, she may be committed by the state board of charity to the state industrial school for girls. [*Approved May 7, 1903.* R. L. 46, § 10, amended. Disposition of unruly inmates of truant schools, etc.

[1913, 779, § 11.]

An Act relative to school attendance and to the employment of minors.

Section 11. Section ten of said chapter forty-six, as amended by section four of chapter three hundred and thirty of the acts of the year nineteen hundred and three, is hereby further amended by striking out the said section and inserting in place thereof the following: — *Section 10.* An inmate of a county training school or of the parental school of the city of Boston who persistently violates the reasonable regulations thereof, or is guilty of indecent or immoral conduct, or otherwise grossly misbehaves, so as to render himself an unfit subject for retention therein, may, upon complaint by the officer in control of said R. L. 46, § 10, etc., amended. Disposition of vicious inmates.

school and conviction thereof, if under fifteen years of age, be committed to the Lyman school for boys; if over fifteen years of age, to the industrial school at Shirley. If a girl who is committed to the custody of the state board of charity under sections three, four or five of this chapter, proves unmanageable in a private family, she may be committed, by the state board of charity, to the state industrial school for girls. [*Approved June 13, 1913.*

Jurisdiction.
1873, 262, § 4.
P. S. 48, § 13.
1890, 309.
1894, 498, § 15.
1898, 496, § 32.

Section 11. (*See also 1908, 286, p. 121, post*). Police, district and municipal courts and trial justices shall have jurisdiction of offences arising under the provisions of section one of chapter forty-four and under the provisions of this chapter. A summons or warrant issued by such court or justice may be served, at the discretion of the court or magistrate, by a truant officer or by any officer qualified to serve criminal process. Upon complaint against a child for any such offence the parents, guardian or custodian of the child shall be notified as is required by section seventeen of chapter eighty-six. A child against whom complaint as an habitual absentee is brought by any other person than a truant officer shall not be committed until notice and an opportunity to be heard have been given to the state board of charity.

Truant officers.
1873, 262, § 2.
1874, 233, § 2.
P. S. 48, § 11.
1894, 498, § 20.
1898, 496, § 33.

Section 12. [*Amended by 1912, 552, 711, infra.*] The school committee of every city and town shall appoint and fix the compensation of one or more truant officers, and shall make regulations for their government. Truant officers shall not receive fees for their services. The school committees of two or more cities or towns may employ the same truant officers.

[1912, 552.]

An Act relative to the appointment of school attendance officers.

R. L. 46, § 12, etc., amended.

Section 1. [*Superseded by 1912, 711, infra.*] Section twelve of chapter forty-six of the Revised Laws is hereby amended by striking out the word "truant", wherever it occurs in said section, and substituting therefor the words: — school attendance, — also by inserting after the word "officers", in the second line, the words: — who may be either male or female as the committee may decide, — so as to read as follows: — *Section 12.* The school committee of every city and town shall appoint and fix the compensation of one or more school attendance officers, who may be either

Appointment of school attendance officers.

male or female as the committee may decide, and shall make regulations for their government. School attendance officers shall not receive fees for their services. The school committees of two or more cities or towns may employ the same school attendance officers.

Section 2. This act shall take effect upon its passage. [*Approved April 29, 1912.*

[1912, 711.]

An Act relative to the appointment of truant officers.

Section 1. Section twelve of chapter forty-six of the Revised Laws, as amended by chapter five hundred and fifty-two of the acts of the year nineteen hundred and twelve, is hereby further amended by striking out the words "school attendance", wherever they occur in said section, and inserting in place thereof the word: — truant, — so as to read as follows: — *Section 12.* The school committee of every city and town shall appoint and fix the compensation of one or more truant officers, who may be either male or female as the committee may decide, and shall make regulations for their government. Truant officers shall not receive fees for their services. The school committees of two or more cities or towns may employ the same truant officers.

R. L. 46, § 12, etc., amended.

Appointment of truant officers.

Section 2. This act shall take effect upon its passage. [*Approved June 4, 1912.*

For suspension of order of commitment see 1913, 471, § 2, p. 225, post. For continuances, see 1913, 457, p. 225, infra.

Section 13. [*Superseded by 1913, 779, § 12.*] Truant officers shall inquire into all cases arising under the provisions of sections one and six of chapter forty-four and sections three, four and five of this chapter, and may make complaints and serve legal processes issued under the provisions of this chapter. They shall have the oversight of children placed on probation under the provisions of section seven. A truant officer may apprehend and take to school, without a warrant, any truant or absentee found wandering about in the streets or public places thereof.

Truant officers, duties of. 1873, 262, § 2. P. S. 48, § 11. 1889, 422. 1894, 498, § 23. 1898, 496, § 34. 193 Mass. 280.

For powers and duties of truant officers, concerning children in factories, etc., see 1909, 514, §§ 62–65.

[1913, 779, § 12.]

An Act relative to school attendance and to the employment of minors.

R. L. 46, § 13, amended.

Section 12. Said chapter forty-six is hereby further amended by striking out section thirteen and inserting in place thereof the following: — *Section 13.* Attendance officers shall inquire into all cases arising under the provisions of sections one, two, three, four and six of chapter forty-four and sections three, four, five and eight of this chapter, or of sections sixty-one, sixty-two, sixty-three or sixty-six of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine, and may make complaints and serve legal processes issued under the provisions of this chapter. They shall have oversight of children placed on probation under the provisions of section seven; of children suffering want to whom the provisions of chapter three hundred and fifty-six of the acts of the year nineteen hundred and four apply; of minors licensed by the school committee under the provisions of chapter four hundred and nineteen of the acts of the year nineteen hundred and ten and subsequent amendments thereof; and of children admitted to or attending shows or entertainments contrary to the provisions of chapter five hundred and thirty-two of the acts of the year nineteen hundred and ten. An attendance officer may apprehend and take to school without a warrant any truant or absentee found wandering about in the streets or public places. [*Approved June 13, 1913.*

Duties of attendance officers.

ADDITIONAL LEGISLATION.

[1914, 738.]

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF DISCIPLINARY DAY SCHOOLS IN THE CITY OF BOSTON AND THE ABOLITION OF THE PARENTAL SCHOOL OF SAID CITY.

School committee of Boston may establish, etc.

SECTION 1. The school committee of the city of Boston may establish and maintain one or more disciplinary day schools for the instruction and training of children who are habitual truants, absentees or school offenders as defined in sections three, four and five of chapter forty-six of the Revised Laws as amended by chapter three hundred and thirty of the acts of the year nineteen hundred and three and by chapter two hundred and twenty of the acts of the year nineteen hundred and four, and by sections six, seven and eight, respectively, of chapter seven hundred and seventy-nine of the acts of the year nineteen hundred and thirteen.

Schoolhouse commissioners may erect and furnish, etc.

SECTION 2. The board of schoolhouse commissioners of the city of Boston may erect and furnish such school buildings upon land now owned by the city and now used for school purposes or otherwise, or said board of schoolhouse commissioners may cause to be taken, in the same manner in which land is taken for school purposes, land in said city to be occupied by said school buildings and shall construct and furnish such school buildings thereon.

School committee may adopt rules and regulations, etc.

SECTION 3. The school committee may adopt rules and regulations for the supervision and direction of such schools, and may also establish rules and regulations for placing children in such schools.

Habitual truants, etc., attendance officer may apprehend without a warrant, etc.

SECTION 4. Any attendance officer may apprehend and take to any such school without a warrant any habitual truant, absentee or school offender who has been placed in such school under rules and regulations established by the school committee relating thereto.

Persons in control of children, etc., must cause them to attend, etc.

Penalty.

Section 5. Every person having under his control a child placed in any such school shall cause him to attend school as provided in the rules and regulations of the school committee, and if he fails to cause such child so to attend school he shall, upon complaint of an attendance officer and upon conviction thereof, be punished by a fine of not more than ten dollars. Whoever induces or attempts to induce a child to absent himself from any such school, or employs or harbors a child while such school is in session, shall be punished by a fine of not less than five nor more than twenty dollars.

Suffolk School for Boys, commitments for failure to obey, etc.

Proviso.

Section 6. An inmate of any such school who persistently violates the reasonable regulations thereof, or who is generally of indecent or immoral conduct, or who otherwise grossly misbehaves, so as to render himself an unfit subject to attend such school, may, upon complaint by an attendance officer or by the officer in control of such school and conviction thereof, if under fifteen years of age, be committed to the Suffolk School for Boys: *provided, however*, that in no case shall the sentence be for a period of more than two years.

Parental school, all children to be transferred from, etc.

Section 7. All children confined in the parental school of the city of Boston at the date when the schools herein provided for are established shall be transferred to the schools established by this act, and shall thereafter be required to attend such schools under the rules and regulations of the school committee.

Parental school, city of Boston may sell or transfer land and buildings, etc.

Section 8. One year after the completion and opening of the schools provided for in this act, the city of Boston is hereby authorized to sell or otherwise dispose of or to transfer to any department of the city, to be used for municipal purposes, the land and buildings now occupied by the said parental school. Upon the sale or transfer of the property the parental school of the city of Boston shall be abolished, and said city of Boston and the county of Suffolk shall thereafter be exempt from the provisions of all laws relating to the maintenance of a county training school.

SECTION 9. All acts and parts of acts relating to the commitment of children to the parental school of the city of Boston are hereby repealed. Repeal.

SECTION 10. This act shall take effect when the schools herein provided for are ready for occupancy. The school committee shall notify the mayor thereof, and the mayor may then issue his proclamation establishing such schools as disciplinary day schools. [*Approved July 2, 1914.* Time of taking effect.

[1915, 122, GEN.]

AN ACT TO DIRECT THE COUNTY OF HAMPDEN TO ERECT BUILDINGS FOR A COUNTY TRAINING SCHOOL.

SECTION 1. The county commissioners of the county of Hampden are hereby authorized and directed to erect in the county of Hampden suitable buildings for a Hampden county training school, and to equip and furnish the buildings suitably for the instruction and training of children committed thereto as habitual truants or school offenders. County of Hampden directed to construct buildings for a training school.

SECTION 2. In order to meet the expense incurred under this act the county commissioners of the county of Hampden are hereby authorized to borrow from time to time upon the credit of the county a sum not exceeding one hundred thousand dollars, and to issue the bonds and notes of the county therefor. The bonds or notes shall be payable in such annual payments, beginning not more than one year after the date of each loan, as will extinguish each loan within twenty years from its date, and the amount of such annual payment of any loan in any year shall not be less than the amount of the principal of the loan payable in any subsequent year. Each authorized issue of bonds or notes shall constitute a separate loan. The said bonds or notes shall bear interest at a rate not exceeding five per cent per annum, payable semi-annually, and shall be signed by the treasurer of the county and countersigned by a majority of the county commissioners. The county may sell the said securities at public or private Expense to be met by loans not to exceed $100,000.

sale, upon such terms and conditions as the county commissioners may deem proper, but they shall not be sold for less than their par value, and the proceeds shall be used only for the purposes herein specified.

County commissioners to provide for payment, etc.

Section 3. The county commissioners, at the time of authorizing the said loan, shall provide for the payment thereof in accordance with the provisions of this act; and a sum sufficient to pay the interest as it accrues on the bonds or notes issued as aforesaid, and to pay the principal when it becomes due, shall be levied as a part of the county tax of the county of Hampden annually thereafter, in the same manner in which other county taxes are levied, until the debt incurred by said loan is extinguished.

Section 4. This act shall take effect upon its passage. [*Approved March 30, 1915.*

PUBLIC HEALTH.

R. L. CHAPTER 75.

OF THE PRESERVATION OF THE PUBLIC HEALTH.

Retention of cases. 1874, 121, § 1. P. S. 80, § 17.

Section 15. The board of health of a city or town shall, to the exclusion of the overseers of the poor, retain charge of any case arising under the provisions of this chapter in which it shall have acted.

Treatment of certain diseases required.

Section 39. [*Superseded by 1906, 365, infra.*] Each city shall provide for the treatment, either in a hospital or as out patients, of indigent persons who are suffering from contagious or infectious venereal diseases.

1895, 400. 186 Mass. 285.

Isolation hospitals in cities. 1901, 171. 186 Mass. 285. 191 Mass. 92.

Section 40. [*Superseded by 1906, 365, infra.*] Each city shall establish and be constantly provided, within its limits, with one or more isolation hospitals for the reception of persons having smallpox or any other disease dangerous to the public health. Such hospitals shall be subject to the orders and regulations of the boards of health of the cities in which they are respectively situated. A city which, upon request of the state board of health, refuses or neglects to comply with the provisions of this section, shall forfeit not more than five hundred dollars for each refusal or neglect. [1]

[1] See note on page 44.

[1906, 365, § 1.]

AN ACT TO REVISE THE LAWS RELATIVE TO THE ESTABLISHMENT AND MAINTENANCE OF PEST HOUSES BY CITIES AND TOWNS.

SECTION 1. Chapter seventy-five of the Revised Laws is hereby amended by striking out sections thirty-five to forty-two, both inclusive, and inserting in place thereof the following: — *Section 35.* A town may establish hospitals within its limits for the treatment of diseases which are dangerous to the public health. Such hospitals shall be subject to the orders and regulations of the board of health. *Section 36.* If a disease which is dangerous to the public health breaks out in a town, or if a person is infected or lately has been infected with any such disease, the board of health shall immediately provide such hospital or place of reception, and such nurses and other assistance and necessaries, as is judged best for his accommodation and for the safety of the inhabitants, and the same shall be subject to the regulations of the board. The board may cause any sick or infected person to be removed to such hospital or place, it if can be done without danger to his health; otherwise the house or place in which he remains shall be considered as a hospital, and all persons residing in or in any way connected therewith shall be subject to the regulations of the said board, and, if necessary, persons in the neighborhood may be removed. *Section 37.* Each city shall establish and constantly be provided, within its limits, with one or more isolation hospitals for the reception of persons having smallpox or any other disease dangerous to the public health. Such hospitals shall be subject to the orders and regulations of the boards of health of the cities in which they are respectively situated. A city which, upon request of the state board of health, refuses or neglects to comply with the provisions of this section, shall forfeit not more than five hundred dollars for each refusal or neglect: *provided,*

R. L. 75, §§ 35–42, amended.

Hospital for contagious diseases.

Duties of boards of health.

Isolation hospital for treatment of smallpox, etc., cases.

Proviso.

however, that if, in the opinion of the boards of health of two or more adjoining cities or towns, such hospitals can advantageously be established and maintained in common, the authorities of the said cities or towns may enter into such agreements as may be necessary for the establishment and maintenance of the same. *Section 38.* The physician, nurses, attendants, patients and all persons approaching or coming within the limits of such hospitals, and all furniture and other articles used or brought there, shall be subject to the regulations of the local board of health. *Section 39.* Such hospitals shall not be established within one hundred rods of an inhabited dwelling house situated in an adjoining city or town without the consent of the board of health of such city or town. *Section 40.* Whoever occupies or uses a building for a hospital in a part of a city or town prohibited by the mayor and aldermen or selectmen shall forfeit not more than fifty dollars for every month during which such offence continues, and in like proportion for a portion of the month. The supreme judicial court or the superior court shall have jurisdiction in equity to restrain such occupancy or use. *Section 41.* Each city shall provide for the treatment, either in a hospital or as out-patients, of indigent persons who are suffering from contagious or infectious venereal diseases. *Section 42.* No discrimination shall be made against the treatment of venereal diseases in the out-patient department of any general hospital supported by taxation in any city in which special hospitals, other than hospitals connected with penal institutions, are not provided for the treatment of such diseases at public expense; but any such hospital may establish a separate ward for their treatment.[1] [*Approved May 8, 1906.*

Physicians, nurses, etc., to be subject to regulations.

Location of hospitals.

Penalty for unlawful use.

Treatment of certain other diseases.

Inmates not to be discriminated against.

[1] A hospital erected by a city for the treatment of contagious diseases is by R. L., c. 75, § 40, under the supervision of the board of health, and in the absence of proof will not be presumed to be a nuisance, public or private. *Manning* v. *Bruce* (1905), 186 Mass. 285. This section, though it requires the establishment of isolation hospitals, does not require that all persons ill with diseases dangerous to the public health shall be treated in such hospitals and not elsewhere. *Haverhill* v. *Marlborough* (1904), 187 Mass. 150.

Treatment of syphilitics. 1891, 420.

SECTION 48. An inmate of a public charitable institution or a prisoner in a penal institution who is afflicted with syphilis shall be forthwith placed under medical treatment, and, if, in the opinion of the attending physician, it is necessary, he shall be isolated until danger of contagion has passed or the physician determines that his isolation is unnecessary. If, at the expiration of his sentence, he is afflicted with syphilis in its contagious or infectious symptoms, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his discharge would be dangerous to public health, he shall be placed under medical treatment and cared for as above provided in the institution where he has been confined until, in the opinion of the attending physician, such symptoms have disappeared and his discharge will not endanger the public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the place in which he has a settlement, after notice of the expiration of his sentence and of his condition to the overseers of the poor thereof, or, if he is a state pauper, to the state board of charity.

Local board to notify state board. 1883, 138, § 1. 1886, 101, § 4. 1893, 302, § 1.

SECTION 52. [*Amended by 1907, 480, infra.*] If the board of health of a city or town has had notice of a case of smallpox, diphtheria, scarlet fever or of any other disease dangerous to the public health therein, it shall within twenty-four hours thereafter give notice thereof to the state board of health stating the name and the location of the patient so afflicted, and the secretary thereof shall forthwith transmit a copy of such notice to the state board of charity.

[1907, 480.]

AN ACT TO PROVIDE FOR THE COMPULSORY NOTIFICATION AND REGISTRATION OF TUBERCULOSIS AND OTHER DISEASES DANGEROUS TO THE PUBLIC HEALTH.

R. L. 75, §§ 49, 50 and 52, etc., amended.

SECTION 1. Sections forty-nine and fifty of chapter seventy-five of the Revised Laws, as amended by chapter two hundred and fifty-one of the acts of the year nineteen hundred and five, and section fifty-two of said chapter

seventy-five are hereby amended by inserting after the word "disease", wherever it may occur in said sections, the words: — declared by the state board of health to be, — so as to read as follows: — . . . *Section 52.* If the board of health of a city or town has had notice of a case of smallpox, diphtheria, scarlet fever or of any other disease declared by the state board of health to be dangerous to the public health therein, it shall within twenty-four hours thereafter give notice thereof to the state board of health stating the name and the location of the patient so afflicted, and the secretary thereof shall forthwith transmit a copy of such notice to the state board of charity.

Local boards to notify state board.

Section 2. This act shall take effect upon its passage. [*Approved June 6, 1907.*

Forfeiture of claim, when. 1883, 138, § 2. 1893, 302, § 2.

Section 53. If such board refuses or neglects to give such notice, the city or town shall forfeit its claim upon the commonwealth for the payment of expenses as provided in section fifty-seven.

Expenses, how to be paid. 1701-2, 9, §§ 1, 2. 1797, 16, § 1. 1837, 244, § 1. 1843, 119. R. S. 21, § 16. G. S. 26, § 16. 1874, 121, § 2. P. S. 80, §§ 40, 83. 187 Mass. 153, 155, 156.

Section 57. [*Repealed and superseded by 1902, 213; 1907, 386; 1909, 380, infra.*] Reasonable expenses incurred by the board of health in making the provision required by law for a person infected with the smallpox or other disease dangerous to the public health shall be paid by such person, his parents or master, if able; otherwise by the town in which he has a legal settlement. If he has no settlement, they shall be paid by the commonwealth and the bills therefor shall be approved by the state board of charity. [1]

[1902, 213.]

An Act relative to compensating cities and towns for caring for persons infected with the smallpox or other disease dangerous to the public health.

Payment of expenses incurred by cities and towns for caring for persons infected with disease dangerous to the public health.

Section 1. [*Amended by 1907, 386; 1909, 380.*] Reasonable expenses incurred by the board of health of a city or town in making the provision required by law for persons infected with the smallpox or other disease dangerous to the public health shall be paid by such person or his parents, if he or they be able to pay, otherwise by the city or town in which he has a legal settlement, upon the approval of the bill by the board of health of such city or town; and such settlements shall be determined by the overseers of the poor. If the person has no settlement such expense shall be paid by the commonwealth, upon approval of bills therefor by the state board of charity. In all cases of persons having settlements a written

[1] See note on page 47.

notice sent within the time required in case of aid given to paupers, shall be sent by the board of health or by the officer or board having the powers of a board of health in the city or town where the person is sick, to the board of health, or to the officer or board having the powers of a board of health in the city or town in which such person has a settlement, who shall forthwith transmit a copy thereof to the overseers of the poor of the place of settlement. In case the person has no settlement such notice shall be given to the state board of health, in accordance with the provisions of section fifty-two of chapter seventy-five of the Revised Laws.

Certain persons not to be deemed paupers.

Section 2. [*Amended by 1907, 386.*] No person for whose care and maintenance a city or town or the commonwealth has incurred expense in consequence of smallpox, scarlet fever, diphtheria or other disease dangerous to the public health shall be deemed to be a pauper by reason of such expenditure.

Repeal.

Section 3. Section fifty-seven of chapter seventy-five of the Revised Laws is hereby repealed.

Section 4. This act shall take effect upon its passage.[1] [*Approved March 26, 1902.*

[1907, 183.]

AN ACT TO AUTHORIZE THE STATE BOARD OF HEALTH TO DEFINE WHAT DISEASES ARE TO BE DEEMED DANGEROUS TO THE PUBLIC HEALTH.

The state board of health to define diseases deemed dangerous to public health.

Section 1. The state board of health is hereby authorized and directed to define what diseases shall be deemed to be "dangerous to the public health", as the term is used in chapter two hundred and thirteen of the acts of the year nineteen hundred and two.

Section 2. This act shall take effect upon its passage. [*Approved March 8, 1907.*

[1907, 386.]

AN ACT RELATIVE TO COMPENSATING THE COMMONWEALTH FOR CARING FOR PERSONS INFECTED WITH DISEASES DANGEROUS TO THE PUBLIC HEALTH.

1902, 213, § 1, amended.

Section 1. [*Amended by 1909, 380, infra.*] Chapter two hundred and thirteen of the acts of the year nineteen hundred and two is hereby amended by striking out section one and inserting in place thereof the following: —

[1] Reimbursement under R. L., c. 75, § 57, can be recovered for such expenses only as have been made for the persons infected with the disease, and do not extend to outlays for the preservation of the public health purely; thus moneys paid a physician for attendance upon the infected persons as well as an agreed sum for his quarantine thereafter may be recovered; but not so a bill for police guard about the quarantine nor for supplies furnished persons quarantined with the infected persons but not themselves infected. *Haverhill* v. *Marlborough* (1904), 187 Mass. 150.

Payment of expenses of cities and towns for caring for certain persons, etc.

Section 1. Reasonable expenses incurred by the board of health of a city or town or by the commonwealth in making the provision required by law for persons infected with smallpox or other disease dangerous to the public health shall be paid by such person or his parents if he or they be able to pay, otherwise by the city or town in which he has a legal settlement, upon the approval of the bill by the board of health of such city or town or by the state board of charity; and such settlements shall be determined by the overseers of the poor, and by the state board of charity in cases cared for by the commonwealth. If the person has no settlement, such expense shall be paid by the commonwealth, upon the approval of bills therefor by the state board of charity. In all cases of persons having settlements, a written notice sent within the time required in the case of aid given to paupers, shall be sent by the board of health, or by the officer or board having the powers of a board of health in the city or town where the person is sick, to the board of health, or to the officer or board having the powers of a board of health in the city or town in which such person has a settlement, who shall forthwith transmit a copy thereof to the overseers of the poor of the place of settlement. In case the person has no settlement, such notice shall be given to the state board of health, in accordance with the provisions of section fifty-two of chapter seventy-five of the Revised Laws.

1902, 213, § 2, amended.

Section 2. Section two of said chapter two hundred and thirteen is hereby amended by inserting after the word "diphtheria", in the third line, the words: — tuberculosis, dog bite requiring anti-rabic treatment, — so as to read as follows: — *Section 2.* No person for whose care and maintenance a city or town or the commonwealth has incurred expense in consequence of smallpox, scarlet fever, diphtheria, tuberculosis, dog bite requiring anti-rabic treatment, or other disease dangerous to the public health shall be deemed to be a pauper by reason of such expenditure.

Certain persons not to be deemed paupers.

Section 3. This act shall take effect upon its passage.[1] [*Approved May 7, 1907.*

[1909, 380.]

An Act relative to the expense of caring for persons infected with diseases dangerous to the public health.

1902, 213, § 1, etc., amended.

Section 1. Section one of chapter two hundred and thirteen of the acts of the year nineteen hundred and two, as amended by section one of chapter three hundred and

[1] See note on page 47.

eighty-six of the acts of the year nineteen hundred and seven, is hereby further amended by adding at the end thereof the words: — and also in any case liable to be maintained by the commonwealth when public aid has been rendered to such sick person, a written notice shall be sent to the state board of charity, containing such information as will show that the person named therein is a proper charge to the commonwealth, and reimbursement shall be made for the reasonable expenses incurred within five days next before such notice is mailed and thereafter until such sick person is removed under the provisions of chapter three hundred and ninety-five of the acts of the year nineteen hundred and four, or is able to be so removed without endangering his or the public health, — so as to read as follows: — *Section 1.* Reasonable expenses incurred by the board of health of a city or town or by the commonwealth in making the provision required by law for persons infected with smallpox or other disease dangerous to the public health shall be paid by such person or his parents if he or they be able to pay, otherwise by the city or town in which he has a legal settlement, upon the approval of the bill by the board of health of such city or town or by the state board of charity; and such settlements shall be determined by the overseers of the poor, and by the state board of charity in cases cared for by the commonwealth. If the person has no settlement, such expense shall be paid by the commonwealth, upon the approval of bills therefor by the state board of charity. In all cases of persons having settlements, a written notice sent within the time required in the case of aid given to paupers, shall be sent by the board of health, or by the officer or board having the powers of a board of health in the city or town where the person is sick, to the board of health, or to the officer or board having the powers of a board of health in the city or town in which such person has a settlement, who shall forthwith transmit a copy thereof to the overseers of the poor of the place of settle-

Payment of expenses incurred by cities and towns in caring for persons infected with disease dangerous to the public health.

ment. In case the person has no settlement, such notice shall be given to the state board of health, in accordance with the provisions of section fifty-two of chapter seventy-five of the Revised Laws, and also in any case liable to be maintained by the commonwealth when public aid has been rendered to such sick person, a written notice shall be sent to the state board of charity, containing such information as will show that the person named therein is a proper charge to the commonwealth, and reimbursement shall be made for the reasonable expenses incurred within five days next before such notice is mailed and thereafter until such sick person is removed under the provisions of chapter three hundred and ninety-five of the acts of the year nineteen hundred and four, or is able to be so removed without endangering his or the public health.

When to take effect.

Section 2. This act shall take effect on the first day of July in the year nineteen hundred and nine.[1] [*Approved May 13, 1909.*

Lying-in hospitals. 1876, 157, §§ 1, 2. P. S. 80, §§ 56, 57.

Section 62. [*Amended by 1910, 569; 1911, 264, infra.*] The selectmen of a town may issue a license, subject to revocation by them, to a person to establish or keep therein for two years, a lying-in hospital, hospital ward or other place for the reception, care and treatment of women in labor, if the board of health shall first certify to the selectmen that, in its judgment, the applicant for such license is a suitable person, and that from its inspection and examination of such hospital, hospital ward or other place aforesaid, the same is suitable for such business.

— visitation of, 1876, 157, § 3. P. S. 80, § 58. 1886, 101, § 4.

Section 63. [*Amended by 1910, 569, infra.*] Such hospital, hospital ward, or other place shall be subject to visitation and inspection at any time by the selectmen, the board of health and the chief of police, and if, during the year, it receives more than six patients, by the state board of health.

Penalties for keeping hospital without license. 1876, 157, § 4. P. S. 80, § 59.

Section 64. [*Amended by 1910, 569, infra.*] Whoever establishes or keeps or is concerned in establishing or keeping a hospital, hospital ward or other place for the purpose mentioned in section sixty-two or is engaged in any such business, without such license, shall for the first offence be punished by a fine of not more than five hundred dollars, to be equally divided between the complainant and the town; and for any subsequent offence by imprisonment for not more than two years.

[1] See note on page 47.

[1910, 569.]

AN ACT TO PROVIDE FOR THE LICENSING AND REGULATION OF LYING-IN HOSPITALS IN CITIES AND TOWNS.

Chapter seventy-five of the Revised Laws is hereby amended by striking out sections sixty-two, sixty-three and sixty-four, and inserting in place thereof the following: R. L. 75, §§ 62, 63, 64, amended.

SECTION 62. [*Amended by 1911, 264, infra.*] The state board of charity may issue a license, subject to revocation by it, to a person whom it deems suitable and responsible to establish or keep for two years within a city or town of this commonwealth, a lying-in hospital, hospital ward or other place for the reception, care and treatment of women in labor, if the local board of health shall first certify to the state board of charity that, from its inspection and examination of such hospital, hospital ward or other place aforesaid, the same is suitable for the said purpose. Licensing of lying-in hospitals.

SECTION 63. The state board of charity shall have supervision of all such hospitals, hospital wards or othe places, may make necessary rules for their regulation and may designate its agents to visit and inspect the same. The said hospitals, hospital wards and other places shall also be subject to visitation and inspection at any time by the head of the police department, or his authorized agent, or the board of health of a city, or by the chief of police, selectmen, or the board of health of a town, and if, during the year, it receives more than six patients, by the state board of health. Supervision of lying-in hospitals.

SECTION 64. Whoever establishes or keeps or is concerned in establishing or keeping in a city or town of this commonwealth a hospital, hospital ward or other place for the purpose mentioned in section sixty-two or is engaged in any such business, without such license, shall for the first offence be punished by a fine of not more than five hundred dollars; and for any subsequent offence by imprisonment for not more than two years. [*Approved May 26, 1910.* Penalty for keeping, etc., of lying-in hospitals, without a license.

[1911, 264.]

AN ACT TO PROVIDE FOR THE LICENSING AND REGULATION OF LYING-IN HOSPITALS IN CITIES AND TOWNS.

R. L. 75, § 62, etc., amended.

Section sixty-two of chapter seventy-five of the Revised Laws, as amended by chapter five hundred and sixty-nine of the acts of the year nineteen hundred and ten, is hereby further amended by inserting after the word "person", in the second line, the words: — body or association of persons, incorporated or unincorporated, whether for a charitable purpose or otherwise, — so as to read as follows:

Licensing, etc., of lying-in hospitals.

— *Section 62.* The state board of charity may issue a license, subject to revocation by it, to a person, body or association of persons, incorporated or unincorporated, whether for a charitable purpose or otherwise, whom it deems suitable and responsible to establish or keep for two years within a city or town of this commonwealth, a lying-in hospital, hospital ward or other place for the reception, care and treatment of women in labor, if the local board of health shall first certify to the state board of charity that, from its inspection and examination of such hospital, hospital ward or other place aforesaid, the same is suitable for the said purpose. [*Approved April 10, 1911.*

ADDITIONAL LEGISLATION.

[1904, 395.]

AN ACT RELATIVE TO THE CARE OF PERSONS INFECTED WITH DISEASES DANGEROUS TO THE PUBLIC HEALTH.

Care of certain persons infected with disease dangerous to the public health.

SECTION 1. [*Amended by 1909, 391, infra.*] The state board of charity may, if found expedient, remove any person who is infected with a disease dangerous to the public health, and who is maintained or liable to be maintained by the commonwealth, to any hospital provided for state paupers, or may provide such place of reception for such person as is judged best for his accommodation and the safety of the public, which place shall be subject to the regulations of the board, and may remove such person thereto.

Payment of expenses.

SECTION 2. Any expenses incurred in carrying out the provisions of this act may be paid from the annual appropriation for expenses in connection with smallpox and other diseases dangerous to the public health.

SECTION 3. This act shall take effect upon its passage. [*Approved June 2, 1904.*

[1909, 391.]

AN ACT RELATIVE TO THE CARE AND REMOVAL BY THE STATE BOARD OF CHARITY OF PERSONS INFECTED WITH DISEASES DANGEROUS TO THE PUBLIC HEALTH.

SECTION 1. Section one of chapter three hundred and ninety-five of the acts of the year nineteen hundred and four is hereby amended by striking out the words "and may remove such person thereto" at the end of said section, and inserting in place thereof the words: — and shall have the same authority to remove such persons thereto as is conferred upon boards of health by the provisions of section thirty-six of chapter seventy-five of the Revised Laws, as amended by chapter three hundred and sixty-five of the acts of the year nineteen hundred and six, — so as to read as follows: — *Section 1.* The state board of charity may, if found expedient, remove any person who is infected with a disease dangerous to the public health, and who is maintained or liable to be maintained by the commonwealth, to any hospital provided for state paupers, or may provide such place of reception for such person as is judged best for his accommodation and the safety of the public, which place shall be subject to the regulations of the board, and shall have the same authority to remove such persons thereto as is conferred upon boards of health by the provisions of section thirty-six of chapter seventy-five of the Revised Laws, as amended by chapter three hundred and sixty-five of the acts of the year nineteen hundred and six.

1904, 395, § 1, amended.

Care of certain persons infected with disease dangerous to the public health.

SECTION 2. Any expenses incurred in carrying out the provisions of this act may be paid from the annual appropriation for expenses in connection with smallpox and other diseases dangerous to the public health.

Payment of expenses.

SECTION 3. This act shall take effect upon its passage. [*Approved May 14, 1909.*

For authority to discharge patients from Penikese Hospital, see 1913, 73, p. 252, infra.

SETTLEMENT OF PAUPERS.

R. L. CHAPTER 80.

OF THE SETTLEMENT OF PAUPERS.

[*Repealed by 1911, 669, infra.*]

Legal settlements. C. L. 123, § 2.

Section 1. Legal settlements may be acquired in any city or town in the following manner, and not otherwise:[1]

1692–3, 28, § 9. 1700–1, 23, § 5. 1766–7, 17, § 6. 1789, 14. 1793, 34, § 2. R. S. 45, § 1. G. S. 69, § 1. 1878, 190, § 1. P. S. 83, § 1. 97 Mass. 382. 138 Mass. 305. 182 Mass. 513. 184 Mass. 559.

— by married women. 1789, 14, § 3. 12 Mass. 363. 13 Allen, 88.

First, A married woman shall follow and have the settlement of her husband if he has any within the commonwealth; otherwise, she shall retain her own at the time of marriage if she then had any.[2]

131 Mass. 454. 149 Mass. 223. 196 Mass. 393.

— by legitimate children. 1789, 14, § 3. 12 Mass. 428. 13 Mass. 468.

Second, Legitimate children shall follow and have the settlement of their father if he has any within the commonwealth; otherwise, they shall follow and have the settlement of their mother if she has any.[3]

15 Mass. 237. 16 Mass. 134. 1 Pick. 197. 3 Pick. 172. 18 Pick. 264. 8 Cush. 528. 6 Allen, 31. 114 Mass. 554. 196 Mass. 393.

— by illegitimate children. 1789, 14, § 3. 13 Mass. 381. 8 Cush. 75. 8 Allen, 551.

Third, Illegitimate children shall have the settlement of their mother at the time of their birth if she then has any within the commonwealth.[4]

[1] "The privilege or qualification of having a settlement is personal, and attends and attaches to the person." Shaw, C.J., in *Great Barrington* v. *Tyringham* (1836), 18 Pick. 264, at 265. Where the town records show votes which contain admissions that a pauper is settled therein, such records are admissible to prove such settlement and warrant a finding to that effect. *Bridgewater* v. *Wareham* (1885), 138 Mass. 305.

[2] "The purpose of the first clause (see 1911, 669, § 1, cl. 2) was to recognize the merger of the wife by the marriage relation, and the right of the husband to fix their domicile; and if he failed to maintain it for a sufficient time to acquire a settlement which by force of law should also be that of his wife, then she should not lose her own by reason of her marriage." Braley, J., in *Bradford* v. *Worcester* (1903), 184 Mass. 557, at 559. A contract of marriage void by reason of one of the parties having been *non compos mentis* at the time of contracting will not operate to destroy a settlement held by a woman prior to such contract. *Middleboro* v. *Rochester* (1815), 12 Mass. 363.

[3] "The general principle is, that every person, who is by law incapable of gaining a settlement in his own right, shall have the settlement of that person, on whom he depends for support; who at the same time has the control of this person, and the right to his services." Wilde, J., in *Dedham* v. *Natick* (1819), 16 Mass. 135, at 139. Hence, the settlement of a widow, acquired by her after the death of her husband, is communicated to her infant children. *Idem.* A person *non compos mentis* is incapable of gaining a settlement by his own act. *Phillip* v. *Boston* (1903), 183 Mass. 314. Thus a legitimate child who is *non compos mentis* upon reaching 21 is incapable of gaining a settlement for himself and therefore follows the settlement of his father. *Upton* v. *Northbridge* (1818), 15 Mass. 237. But incipient insanity which does not render him incapable of making a valid contract, will not so operate. *Buckland* v. *Charlemont* (1825), 3 Pick. 173. Marriage of a female child during minority works an emancipation thereby rendering her incapable of following the settlement of her parents. *Charlestown* v. *Boston* (1816), 13 Mass. 469.

[4] An illegitimate child, legitimated by the marriage of its parents thereupon takes the settlement of its father. *Monson* v. *Palmer* (1864), 8 Allen 551. So also an adoptive child, by virtue of the adoption. *Washburn* v. *White* (1886), 140 Mass. 568.

Fourth, A person of the age of twenty-one years who has an estate of inheritance or freehold in any place within the commonwealth and lives thereon three consecutive years shall thereby acquire a settlement in such place.[1] 1868, 328, § 1. 1871, 379, § 1. 1 Pick. 153.

Legal settlements by freeholders, etc. 1789, 14, § 1. 1821, 94, § 2.

21 Pick. 233. 1 Gray, 619. 125 Mass. 521.
3 Met. 165. 6 Allen, 431. 127 Mass. 540.
5 Met. 350. 9 Allen, 137. 131 Mass. 18.
4 Cush. 172. 107 Mass. 598. 140 Mass. 224.
8 Cush. 525. 110 Mass. 113. 159 Mass. 491.

Fifth, A person of the age of twenty-one years who resides in any place within this commonwealth for five consecutive years and within that time pays all state, county, city or town taxes duly assessed on his poll or estate for any three years within that time shall thereby acquire a settlement in such place.[1] 1898, 425, § 1. 13 Mass. 501. 16 Mass. 236.

— by residents and tax payers. 1789, 14, § 1. 1868, 328, § 1. 1871, 379, § 1. 1874, 274, §§ 1, 3.

7 Pick. 42. 15 Gray, 496. 130 Mass. 370.
8 Pick. 379. 6 Allen, 508. 132 Mass. 495, 519.
10 Met. 115. 99 Mass. 587. 153 Mass. 192.
12 Met. 35. 105 Mass. 293. 159 Mass. 491.
4 Cush. 557. 126 Mass. 477. 180 Mass. 39.

Sixth, A woman of the age of twenty-one years, including a married woman who has no settlement derived by marriage under the provisions of the first clause, and a widow, who resides in any place within this commonwealth for five consecutive years, shall thereby acquire a settlement in such place.[2] 137 Mass. 152. 140 Mass. 243, 325.

— by women, residence. 1870, 392, § 1. 1874, 274, § 2. 1879, 242, § 2. 120 Mass. 574. 130 Mass. 357. 136 Mass. 424.

144 Mass. 25. 165 Mass. 251. 191 Mass. 128.
155 Mass. 359. 183 Mass. 315.

[1] Where the statute calls for a term of residence by which a settlement may be gained such term must have begun upon or after the passage of the act. *Rutland* v. *Mendon* (1822), 1 Pick. 154. Residence within the meaning of this statute is held to indicate domiciliary residence merely. Thus an interval of absence but without change of domicile did not interrupt the residence for the purpose of gaining a settlement. *Lee* v. *Lenox* (1860), 15 Gray, 496; *Wilbraham* v. *Ludlow* (1868), 99 Mass. 587. Where the statute requires a definite period of residence in order to gain a settlement such settlement will be gained by a person who while mentally competent to contract and exercise choice takes up such residence even though he become *non compos mentis* before the expiration of the required period. This conclusion is based upon the fundamental rule that a state of things once shown to exist is presumed to continue until a change is proved. *Chicopee* v. *Whately* (1863), 6 Allen, 508. Under the provisions of § 1, cl. 5, the three years in which all taxes are paid must fall within the five years of residence. Thus where the third full tax year had not been completed when the person ceased to be capable of gaining a settlement, it was held that no settlement was gained. *Taunton* v. *Wareham* (1891), 153 Mass. 192. "Ordinarily the word 'resides' may be construed as having a residence in a place and to be there, settled as a home, and in our laws relating to taxation, voting and settlement of paupers has the same meaning as domicile." Braley, J., in *Phillips* v. *Boston* (1903), 183 Mass. 314, p. 315. "In general terms, one may be designated as an inhabitant of that place, which constitutes the principal seat of his residence, of his business, pursuits, connections, attachments, and of his political and municipal relations. It is manifest, therefore, that it embraces the fact of residence at a place, with the intent to regard it and make it his home. The act and intent must concur and the intent may be inferred from declaration and conduct." Shaw, C.J., in *Lyman* v. *Fiske* (1835), 17 Pick. 231, at 234. An abatement of tax presupposes the assessment not duly made. *Vide Billerica* v. *Chelmsford* (1813), 10 Mass. 394.

[2] The provisions of § 1, cl. 6, save in the exception stated, do not apply to married women. See *Somerville* v. *Boston* (1876), 120 Mass. 574. A married woman may acquire a settlement by residence apart from her husband where separate domicile is egally established. See *Clark* v. *Clark* (1906), 191 Mass. 128.

Legal settlements by town officers.
12 Mass. 262.
1 Pick. 129.

Seventh, A person who is chosen and actually serves one whole year or for such period as is included between two successive annual town elections as clerk, treasurer, selectman, overseer of the poor, assessor, constable or collector of taxes in any place shall thereby acquire a settlement therein.

— by settled ministers.
4 Cush. 553.

Eighth, A settled ordained minister of the gospel shall acquire a settlement in the place wherein he is settled as a minister. 7 Allen, 90.

—by apprentices, etc.

Ninth, A minor who serves an apprenticeship to a lawful trade for four years in any place, and actually sets up such trade therein within one year after the expiration of said term, being then twenty-one years of age, and continues there to carry on the same for five years, other than as a hired journeyman, shall thereby acquire a settlement in such place.

— how acquired by soldiers and sailors.
1865, 230, §§ 1, 3.
1866, 288.
1868, 328, § 3.
1870, 392, §§ 3–5.
1871, 379, § 2.
97 Mass. 382.
102 Mass. 358.
104 Mass. 46.
107 Mass. 282.
115 Mass. 342.
130 Mass. 107.
132 Mass. 498, 510, 519.
138 Mass. 256, 293.
139 Mass. 15.
144 Mass. 520.
150 Mass. 106.

Tenth, [*embodied in 1911, 669, § 1, cl. 5, infra*] A person who was enlisted and mustered into the military or naval service of the United States, as a part of the quota of a city or town in this commonwealth, under any call of the President of the United States during the war of the rebellion or who was assigned as a part of the quota thereof after having been enlisted and mustered into said service, and who served for not less than one year, or died or became disabled from wounds or disease received or contracted while engaged in such service, or while a prisoner of the enemy, and his wife or widow and minor children, shall be deemed thereby to have acquired a settlement in such place; and any person who would otherwise be entitled to a settlement under this clause, but who was not a part of the quota of any city or town, shall, if he served as a part of the quota of the commonwealth, be deemed to have acquired a settlement in the place where he actually resided at the time of his enlistment. But these provisions shall not apply to any person who was enlisted and received a bounty for such enlistment in more than one place unless the second enlistment was made after an honorable discharge from the first term of service, nor to any person who has been proved guilty of wilful desertion, or who left the service otherwise than by reason of disability or an honorable discharge.[1]

— upon division or incorporation of towns.
1872, 280.
1 Pick. 144.
24 Pick. 164.
6 Met. 484.
4 Cush. 185.
1 Allen, 75.
125 Mass. 304.

Eleventh, [*embodied in 1911, 669, § 1, cl. 6*] Upon the division of a city or town, every person having a legal settlement therein, but being absent at the time of such division, and not having acquired a legal settlement elsewhere, shall have his legal settlement in the city or town containing the last dwelling place or home which he had in the city or town so divided; and if a new city or town, composed of a part of one or more other cities or towns, is incorporated, every person legally settled in the places of which such new city or town is so composed, and who actually dwells and has his home within the bounds of such new city or town at the time of its incorporation, and any person duly qualified as provided in

[1] The legislative intent in cl. 10 includes every man who at any period served and went to make up the quota, although his service may have begun and ended before the quota was ascertained. *Bridgewater* v. *Plymouth* (1867), 97 Mass. 382, at 390. It applies to drafted men as well as to volunteers, and this even though it appears after a year's service that the person had been illegally drafted. *Sheffield* v. *Otis* (1871), 107 Mass. 282. Nor will the settlement be defeated by the fact that the enlistment and service are consummated under a false name. *Milford* v. *Uxbridge* (1881), 130 Mass. 107. Nor that the soldier was a minor at the time of enlistment. *Fall River* v. *Taunton* (1889), 150 Mass. 106. The settlement thus gained is held by virtue of the retroactive provision of the statute to be acquired immediately upon the completion of the conditions. *Boston* v. *Warwick* (1882), 132 Mass. 519. A military settlement gained under cl. 10 may be replaced by another settlement gained under the same provision, even though both settlements have been completed before the act went into effect. *Granville* v. *Southampton* (1884), 138 Mass. 256.

the tenth clause of this section, who, at the time of his enlistment, dwelt and had his home within such bounds, shall thereby acquire a legal settlement in such new place; but no person residing in that part of a place which upon such division is incorporated into a new city or town, and who then has no legal settlement therein, shall acquire any by force of such incorporation only; nor shall such incorporation prevent his acquiring a settlement therein within the time and by the means by which he would have gained it there if no such division had been made.

Legal settlements not acquired while receiving relief as a pauper. 1874, 274, § 4. 1879, 242, § 1.

SECTION 2. No person shall acquire a settlement, or be in process of acquiring a settlement, while receiving relief as a pauper, unless, within five years after the time of receiving such relief, he reimburses the cost thereof to the city or town furnishing the same.[1]

P. S. 83, § 2. 4 Allen, 574. 144 Mass. 25.
13 Met. 192. 128 Mass. 287. 180 Mass. 39.
13 Gray, 92. 136 Mass. 424. 196 Mass. 395.

Inability to maintain wife, etc., in insane hospital, etc., not to make one a pauper. 1881, 188. P. S. 83, § 3.

SECTION 3. [*Embodied in 1911, 669, § 3.*] No person who actually supports himself and his family shall be deemed to be a pauper by reason of the commitment of his wife, child or other relation to an insane hospital or other institution of charity, reform or correction by order of a court or magistrate, and of his inability to maintain such wife, child or relation therein.[2] 1898, 433, § 23. 19 Pick. 480.

15 Gray, 15. 105 Mass. 293. 160 Mass. 232.
13 Allen, 88. 138 Mass. 191. 180 Mass. 39.

Provision for persons who have begun to acquire settlements. R. S. 45, § 2. G. S. 69, § 2. 1878, 190, § 2. P. S. 83, § 4.

SECTION 4. No person who has begun to acquire a settlement by the laws in force at and before the time when this chapter takes effect, in any of the ways in which any period of time is prescribed for a residence, or for the continuance or succession of any other act, shall be prevented or delayed by the provisions hereof; but he shall acquire a settlement by a continuance or succession of the same residence or other act, in the same time and manner as if the former laws had continued in force.

Settlements to continue, etc. 1793, 34, § 2, cl. 12. R. S. 45, § 3. G. S. 69, § 3. 1878, 190, § 3.

SECTION 5. Except as hereinafter provided, every legal settlement shall continue until it is defeated or lost by the acquisition of a new one within this commonwealth; and upon the acquisition of such new settlement all former settlements shall be defeated and lost.[3]

P. S. 83, § 5. 13 Met. 192. 13 Gray, 586.
11 Mass. 441. 6 Cush. 61. 182 Mass. 512.

[1] A person supported in a prison while serving sentence is not "receiving relief as a pauper." *Whately* v. *Hatfield* (1907), 196 Mass. 393. (See 1911, 669, § 2.) A man cannot gain a settlement while his wife is with his knowledge receiving relief as a pauper. *Oakham* v. *Warwick* (1866), 13 Allen, 88; *Charlestown* v. *Groveland* (1859), 15 Gray, 15. *Per contra*, if such relief be given without his knowledge and without demand upon him for reimbursement. *Berkeley* v. *Taunton* (1837), 19 Pick. 480; *Wareham* v. *Milford* (1870), 105 Mass. 293. Nor while he is receiving money from public funds for the relief of his child. *Taunton* v. *Middleborough* (1846), 12 Met. 35. And it is not requisite that such public relief be rendered by the city or town in which he is in process of gaining a settlement. *Worcester* v. *Auburn* (1862), 4 Allen, 574. But this provision does not hold in the case of a stepchild since the father is not legally bound to support it. *Brookfield* v. *Warren* (1880), 128 Mass. 287. Where the statute provides that the interruption to the gaining of a settlement caused by receiving relief as a pauper may be removed by reimbursement, it is not necessary to wait until the expiration of the time named in such provision before bringing action gainst the place of present settlement. *Dedham* v. *Milton* (1884), 136 Mass. 424.

[2] The Massachusetts State Infirmary is held to fall within the provisions of § 3. *Shrewsbury* v. *Worcester* (1901), 180 Mass. 38. Section 3 (see 1911, 669, § 3) is prospective only in its operation. *Worcester* v. *Barre* (1884), 138 Mass. 101.

[3] A settlement gained in Massachusetts is not lost by the gaining of a settlement under foreign law in another State. *Canton* v. *Bentley* (1814), 11 Mass. 441.

Settlements lost, when.
1870, 392, § 2.
1871, 379, § 3.
1878, 190, § 4.
P. S. 83, § 6.
1898, 425, § 2.
116 Mass. 570.
187 Mass. 595.

Section 6. Any settlement which was not fully acquired subsequent to the first day of May in the year eighteen hundred and sixty is hereby defeated and lost, unless such settlement prevented a subsequent acquisition of settlement in the same place; but if a settlement acquired by marriage is so defeated, the former settlement of the wife, if not also so defeated, shall be revived. A person who is absent from the commonwealth for ten consecutive years shall lose his settlement.[1]

[1911, 669.]

An Act relative to legal settlements.

Acquirement of legal settlement.

Section 1. Legal settlements may be acquired in any city or town in the following manner and not otherwise: —

First, Any man or woman, including a married woman whose husband has no settlement within the commonwealth, of the age of twenty-one years, who hereafter resides in any city or town within this commonwealth for five consecutive years, shall thereby acquire a settlement in such place.

Second, A married woman shall follow and have the settlement of her husband if he has any within the commonwealth; otherwise, she shall retain her own at the time of marriage if she then had any.

Third, Legitimate children shall follow and have the settlement of their father if he has any within the commonwealth; otherwise, they shall follow and have the settlement of their mother if she has any; if the father dies during the minority of his children they shall thereafter follow and have the settlement of their mother; in the event of the divorce of the parents the minor children shall follow and have the settlement of the parent to whom the court awards the custody of said minor children.

Fourth, Illegitimate children shall follow and have the settlement of their mother if she has any within the commonwealth.

[1] Section 6 is not retroactive. *Lawrence* v. *Methuen* (1905), 187 Mass. 592. The provision of R. L., c. 80, § 6, that "a person who is absent from the commonwealth for ten consecutive years shall lose his settlement," is applicable to an insane person who was removed to an asylum in another State and there maintained for more than ten consecutive years. 3 Op. A. G. 207 (March 5, 1909).

Fifth, A person who enlisted and was mustered into the military or naval service of the United States, as a part of the quota of a city or town in this commonwealth under any call of the president of the United States during the war of the rebellion, or who was assigned as a part of the quota thereof after having enlisted and been mustered into said service, and who served for not less than one year, or who died or became disabled from wounds or disease received or contracted while engaged in such service, or while a prisoner of the enemy, and his wife or widow and minor children shall be deemed thereby to have acquired a settlement in such place; and any person who would otherwise be entitled to a settlement under this clause, but who was not a part of the quota of any city or town, shall, if he served as a part of the quota of the commonwealth, be deemed to have acquired a settlement in the place where he actually resided at the time of his enlistment. But these provisions shall not apply to any person who enlisted and received a bounty for such enlistment in more than one place unless the second enlistment was made after an honorable discharge from the first term of service, nor to any person who has been proved guilty of wilful desertion, or who left the service otherwise than by reason of disability or an honorable discharge.

Sixth, Upon the division of a city or town, every person having a legal settlement therein, but being absent at the time of such division, and not having acquired a legal settlement elsewhere, shall have his legal settlement in the city or town containing the last dwelling place or home which he had in the city or town so divided; and, if a new city or town, composed of a part of one or more other cities or towns, is incorporated, every person legally settled in any of the places of which such new city or town is so composed, and who actually dwells and has his home within the bounds of such new city or town at the time of its incorporation, and any person duly qualified as provided in the fifth clause of this section, who, at the time of

his enlistment, dwelt and had his home within such bounds, shall thereby acquire a legal settlement in such new city or town; but no person residing in that part of a city or town which upon such division is incorporated into a new city or town, and who then has no legal settlement therein, shall acquire any by force of the incorporation only; nor shall such incorporation prevent his acquiring a settlement therein within the time and by the means by which he would have gained it there if no such division had been made.

Persons receiving relief as paupers not to acquire settlement unless, etc.

Section 2. No person shall acquire a settlement, or be in process of acquiring a settlement, while receiving relief as a pauper, unless, within two years after the time of receiving such relief, he tenders reimbursement of the cost thereof to the commonwealth, or to the city or town furnishing the same.

Certain persons not to be deemed paupers.

Section 3. [*Amended by 1913, 266, infra.*] No person who actually supports himself and his family shall be deemed to be a pauper by reason of the commitment of his wife, child or other relative to an insane hospital or other institution of charity, reform or correction by order of a court or magistrate, and of his inability to maintain the wife, child or relative therein.

[1913, 266.]

An Act to provide that certain needy persons shall not be termed paupers.

1911, 669, § 3, etc., amended.

Section 1. Section three of chapter six hundred and sixty-nine of the acts of the year nineteen hundred and eleven is hereby amended by adding at the end thereof the words: — or who, to the best of his ability, has attempted to provide for himself and his dependents and has not been a mendicant, and who, through no crime or misdemeanor of his own, has come into grievous need and receives aid or assistance given temporarily, or partial support continuously, to him or his family: *provided*, that nothing in this act shall be construed to affect, directly or indirectly, settlement, poor or pauper laws, or laws by which any charity, aid or assistance is furnished by public

authority, — so as to read as follows: — *Section 3.* No person who actually supports himself and his family shall be deemed to be a pauper by reason of the commitment of his wife, child or other relative to an insane hospital or other institution of charity, reform or correction by order of a court or magistrate, and of his inability to maintain the wife, child or relative therein; or who, to the best of his ability, has attempted to provide for himself and his dependents and has not been a mendicant, and who, through no crime or misdemeanor of his own, has come into grievous need and receives aid or assistance given temporarily, or partial support continuously, to him or his family: *provided*, that nothing in this act shall be construed to affect, directly or indirectly, settlement, poor or pauper laws, or laws by which any charity, aid or assistance is furnished by public authority.

Certain persons not to be deemed paupers.

Proviso.

SECTION 2. This act shall take effect upon its passage. [*Approved March 8, 1913.*

SECTION 4. [*See also 1914, 323, infra.*] A person who, after the passage of this act, is absent for five consecutive years from the city or town in which he had a settlement shall thereby lose his settlement. But the time during which a person shall have been an inmate of any public hospital, public sanatorium, almshouse, jail, prison, or other public institution, within the commonwealth, or of a soldiers' or sailors' home whether within or without the commonwealth, shall not be counted in computing the time either for acquiring or for losing a settlement, except as provided in section two.

Loss of settlement.

SECTION 5. All existing settlements shall continue in force until changed or defeated by the provisions of this act, and no person who has begun to acquire a settlement by the laws in force at and before the time when this act takes effect, in any of the ways in which any period of time is prescribed for a residence or for the continuance or

Existing settlements to continue in force until, etc.

succession of any other act, shall be prevented or delayed by the provisions hereof, but he shall acquire a settlement by a continuance or succession of the same residence or other act, in the same time and manner as if the former laws had continued in force.

A settlement not fully acquired to be defeated by this act.

Section 6. Any settlement which was not fully acquired subsequent to the first day of May in the year eighteen hundred and sixty is hereby defeated and lost, unless such settlement prevented a subsequent acquisition of settlement in the same place; but if a settlement acquired by marriage is so defeated, the former settlement of the wife, if not also so defeated, shall be revived.

Repeal.

Section 7. Chapter eighty of the Revised Laws is hereby repealed. [*Approved July 13, 1911.*

ADDITIONAL LEGISLATION.

[1914, 323.]

An Act relative to the settlements of patients who are inmates of institutions.

Time spent in state institutions, etc., not to be counted in gaining settlement, in certain cases, etc.

Section 1. In determining the settlement of a person who is or has been an inmate of a state sanatorium or hospital or other state institution, the time during which he was in the institution, or during which he was in any manner under the care or direction of such institution or of any officer connected therewith, shall not be reckoned in determining the length of his residence in the city or town in which such institution is situated.

Section 2. This act shall take effect upon its passage. [*Approved April 8, 1914.*

SUPPORT OF PAUPERS.

R. L. CHAPTER 81.

OF THE SUPPORT OF PAUPERS BY CITIES AND TOWNS.

Towns to support poor. C. L. 123, § 2. 1692–3, 28, § 9. 1788, 61, § 1. 1793, 59, § 1.

SECTION 1. Every city and town shall relieve and support all poor and indigent persons lawfully settled therein, whenever they stand in need thereof.[1] R. S. 46, § 1.

G. S. 70, § 1. P. S. 84, § 1. 9 Met. 495. 10 Cush. 238. 3 Allen, 515, 106 Mass. 262. 160 Mass. 232, 503. 196 Mass. 393.

Powers and duties of overseers of the poor. 1788, 61, § 1. 1793, 59, § 2. R. S. 46, § 2. 1857, 153. G. S. 70, § 2. P. S. 84, § 2. 10 Cush. 238. 8 Allen, 73. 106 Mass. 262. 128 Mass. 148.

SECTION 2. The overseers of the poor shall have the care and oversight of all such poor and indigent persons so long as they remain at the charge of their respective cities or towns, and shall see that they are suitably relieved, supported and employed, either in the workhouse or almshouse, or in such other manner as the city or town directs, or otherwise at the discretion of said overseers. They may remove to the almshouse such children as are suffering destitution from extreme neglect of dissolute or intemperate parents or guardians, except as hereinafter provided.[2]

See 1905, 162, p. 11, supra, relative to plans for almshouse buildings.

[1] "The liability of towns to support poor persons is founded upon and limited by statute, and is not to be enlarged or modified by any supposed moral obligation." Shaw, C.J., in *Smith* v. *Colrain* (1845), 9 Met. 492, at 495. Thus, the liability of a town for aid rendered to poor persons by citizens after notice does not extend to such aid rendered outside the town. *Idem.* The community is under no moral or natural obligation to relieve its poor. The duty is therefore of mere positive obligation, created and charged upon it by the statute. The nature and extent of such obligation are consequently limited and controlled by the statute. See Shaw, C.J., in *East Sudbury* v. *Sudbury* (1831), 12 Pick. 1, at 6.

[2] Under § 2 the overseers may provide support in another city or town. *Smith* v. *Peabody* (1871), 106 Mass. 262. They may send children to a proper home in a distant place even against the wishes and without the consent of their parents who are not of sufficient ability to support them. *Idem.* The word support in this statute includes *maintenance* as distinguished from mere *board*. *Gould* v. *Lawrence* (1893), 160 Mass. 232. The overseers of the poor can legally bind their town by a contract for the support in another town of a person lawfully settled in their town who is too sick to be removed and is in immediate need of relief. *Aldrich* v. *Blackstone* (1879), 128 Mass. 148. Such a contract, being a work of necessity or charity, is valid though executed on the Lord's day. *Idem.*

Care of paupers in families. 1897, 374, § 1. 1898, 396, § 1.

Section 3. In towns in which paupers are provided for in families, the overseers of the poor shall investigate each place where the town paupers are to be so provided for, and shall endeavor by contract to secure their proper care and maintenance. A full and complete record of each case shall be kept, showing the terms of the contract and what services, if any, are to be rendered by the paupers. A majority of the overseers of the poor shall certify upon the records that such investigation has been made in each case, and that they are satisfied that the paupers will be properly cared for. The overseers of the poor, either by one of their own number or by a duly appointed agent, shall, at least once in every six months, visit each place where the town paupers are supported, and a record of each visit and of the condition of the paupers visited shall be kept.[1]

Visitation by board of charity. 1897, 374, § 3. 1898, 396, § 2.

Section 4. [*Amended by 1905, 285, infra.*] The state board of charity may visit and inspect all places where town paupers are supported in families.

[1905, 285.]

An Act relative to the visitation of city and town paupers by the state board of charity.

R. L. 81, § 4, amended.

Section four of chapter eighty-one of the Revised Laws is hereby amended by inserting after the word "where", in the second line, the words: — city or, — so as to read as follows: — *Section 4.* The state board of charity may visit and inspect all places where city or town paupers are supported in families. [*Approved April 13, 1905.*

Visitation by board of charity.

Overseers to place pauper children in families. 1879, 103, § 1. P. S. 84, § 3. 1893, 197, § 1.

Section 5. [*Amended by 1905, 303, § 1, infra.*] In every city and town, said overseers shall place every pauper child who is in their charge and is over four years of age in a respectable family in the commonwealth, or in an asylum therein, to be there supported by the city or town according to the laws relative to the support of the poor until they can be otherwise

[1] In its technical sense the word "pauper" designates a person who has received support from the public funds. Metcalf, J., in *Hutchings* v. *Thompson* (1852), 10 Cush. 238. In the untechnical sense of the term a "pauper," in the language of the law, is one residing or found in any town where he falls into distress, and stands in need of immediate relief." Shaw, C.J., in *Shearer* v. *Shelburne* (1852), 10 Cush. 3, at 5.

cared for. The overseers, personally or by agent, shall visit such child at least once in three months and make all needful inquiries as to his treatment or welfare.

[1905, 303, § 1.]

AN ACT RELATIVE TO THE PLACING OF PAUPER CHILDREN IN FAMILIES.

SECTION 1. Section five of chapter eighty-one of the Revised Laws is hereby amended by striking out the word "four", in the second line, and inserting in place thereof the word: — two, — so as to read as follows: — *Section 5.* In every city and town, said overseers shall place every pauper child who is in their charge and is over two years of age in a respectable family in the commonwealth, or in an asylum therein, to be there supported by the city or town according to the laws relative to the support of the poor until they can be otherwise cared for. The overseers, personally or by agent, shall visit such child at least once in three months and make all needful inquiries as to his treatment or welfare. [*Approved April 17, 1905.*

R. L. 81, § 5, amended.

Overseers of the poor to place pauper children in families, etc.

[For support of children by their parents, see 1906, 501, p. 118; 1909, 180, p. 118; and 1911, 456, p. 121, infra.] For disposition of epileptic children, see 1909, 504, §§ 66, 67.

SECTION 6. If said overseers of any city, except Boston, or of any town, fail to place out any pauper child according to the provisions of the preceding section for two months after the date of receiving such child, the state board of charity, to the exclusion of said overseers, shall perform such duty, and such child shall, under the direction of said board, be supported by the city or town in the same manner as if placed out by the overseers, and shall be subject to visitation by the officers or agents of said board until the board is satisfied that the overseers will properly care for him.

Board of charity to place pauper children in families, when. 1887, 401. 1893, 197, § 2. 1898, 433, § 24.

SECTION 7. [*Amended by 1905, 303, § 2; 1913, 112, infra.*] No such child who can be cared for as provided in section five without inordinate expense shall be retained in an almshouse unless he is a state pauper or an

Such children not to be retained in almshouses

unless state paupers, etc. 1879, 103, § 2. P. S. 84, § 4.

idiot, or otherwise so defective in body or mind as to make his retention in an almshouse desirable, or unless he is under the age of eight years and his mother is an inmate thereof and is a suitable person to aid in taking care of him.

[1905, 303, § 2.]

An Act relative to the placing of pauper children in families.

R. L. 81, § 7, amended.

Certain children not to be retained in almshouses.

Section 2. Section seven of said chapter eighty-one is hereby amended by striking out the word "eight", in the fifth line, and inserting in place thereof the word: — five, — so as to read as follows: — *Section 7.* No such child who can be cared for as provided in section five without inordinate expense shall be retained in an almshouse unless he is a state pauper or an idiot, or otherwise so defective in body or mind as to make his retention in an almshouse desirable, or unless he is under the age of five years and his mother is an inmate thereof and is a suitable person to aid in taking care of him. [*Approved April 17, 1905.*

[1913, 112.]

An Act relative to the placing of pauper children in families.

Section 1. Section seven of chapter eighty-one of the Revised Laws, as amended by section two of chapter three hundred and three of the acts of the year nineteen hundred and five, is hereby further amended by striking out the word "five", in the sixth line, and inserting in place thereof the word: — three, — so as to read as follows: — *Section 7.* No such child who can be cared for as provided in section five without inordinate expense shall be retained in an almshouse unless he is a state pauper or an idiot, or otherwise so defective in body or mind as to make his retention in an almshouse desirable, or unless he is under the age of three years and his mother is an inmate thereof and is a suitable person to aid in taking care of him.

Certain children not to be retained in almshouses.

Section 2. This act shall take effect upon its passage. [*Approved February 17, 1913.*

Powers of overseers. 1828, 142, § 2.

Section 8. The overseers of the poor shall have the same power and authority over persons placed under their

care which directors or masters of workhouses have over persons committed thereto. 186 Mass. 342.

R. S. 46, § 3.
G. S. 70, § 3.
P. S. 84, § 5.

Liability of pauper.
1817, 186, § 5.
1882, 113.
12 Mass. 327.

SECTION 9. A pauper, his executor or administrator shall be liable in an action of contract to a city or town in which he has a settlement for expenses incurred by it for his support.[1] 1 Allen, 24. 146 Mass. 134. 148 Mass. 159. 186 Mass. 342. 196 Mass. 65.

Certain kindred to support.
1692-3, 28, § 9.
1788, 61, § 1.
1793, 59, § 3.
R. S. 46, § 5.
G. S. 70, § 4.
P. S. 84, § 6.
1898, 425, § 3.
15 Pick. 159.
10 Cush. 238.
6 Allen, 586.
128 Mass. 137, 288.
144 Mass. 25.
160 Mass. 232.

SECTION 10. The kindred of such poor persons, in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by consanguinity, living in this commonwealth, and of sufficient ability, shall be bound to support such poor persons in proportion to their respective ability. The mother shall be under the same legal obligation to support her pauper children as the father, but she shall not be liable to criminal prosecution for the enforcement of such obligation.[2]

Superior court to assess such kindred.
1692-3, 28, § 9.
1788, 61, §§ 1, 2.

SECTION 11. A justice of the superior court sitting in equity in the county in which any one of such kindred to be charged resides, upon complaint of any city, town or

[1] The laws granting State aid, military aid and soldiers' relief do not preclude their beneficiaries from the right to claim support under the poor laws. *Crossman* v. *New Bedford Institution for Savings* (1893), 160 Mass. 503. Consequently, a person who, though entitled to such aid, claims only poor relief, is pauperized thereby and the town is not barred from recovering against him for support by the fact that it has not afforded him soldiers' relief. *Idem.* See also *Taunton* v. *Talbot* and *Millis* v. *Frink*, p. 6, *supra.*

[2] The word "kindred" includes only blood relationship: thus the husband is liable to the town for relief given to his wife as a pauper, but his liability is at common law and not by virtue of this section of the statute. *Brookfield* v. *Allen* (1863), 6 Allen, 585. In like manner a stepfather is not within the statute and pauper relief to his stepchild will not make him a pauper. *Brookfield* v. *Warren* (1880), 128 Mass. 287. *Sed per contra* if he takes them into his family, for in that case he stands *in loco parentis*, and, in the absence of express contract or other circumstance showing a different arrangement, has a right to their services and is liable for their support and education. *Mulhern* v. *McDavitt* (1860), 16 Gray, 404; *Livingston* v. *Hammond* (1894), 162 Mass. 375; *Kirchgassner* v. *Rodick* (1898), 170 Mass. 543. The liability of a grandfather under R. L., c. 81, §§ 10, 11, to reimburse a town for expense incurred for the support of a pauper grandchild who is a minor is not affected by the fact that, when the support was furnished by the town, another person had been appointed by the probate court the guardian of the grandchild with the custody of his person. *Fairhaven* v. *Howland* (1913), 216 Mass. 149. The term "such poor persons" in § 10 is not confined to persons who have been public charges, but includes all poor and indigent persons standing in need of relief. *Hutchings* v. *Thompson* (1852), 10 Cush. 238. So also the term "such pauper" in § 11. *Idem.* The term "of sufficient ability" means present ability; not ability to pay the assessment under all the uncertain contingencies which might happen in the future. *Templeton* v. *Stratton* (1879), 128 Mass. 137.

1793, 59, § 3.
R. S. 46, § 6.
G. S. 70, § 5.
P. S. 84, § 7.
1898, 425, § 4.
3 Mass. 436.
10 Cush. 238.
11 Cush. 24.
5 Gray, 28.
128 Mass. 137.

kindred who has been at expense for the relief and support of such pauper, may on due hearing assess and apportion upon such of the kindred as it finds to be of sufficient ability and in proportion thereto such amount as he shall consider reasonable for or towards the support of the pauper to the time of such assessment, and may enforce payment thereof by execution in common form; but such assessment shall not extend to any expense for relief afforded more than two years previous to the filing of the complaint.

Assessment for future expenses.
1793, 59, § 3.
R. S. 46, § 7.
G. S. 70, § 6.
P. S. 84, § 8.

Section 12. The court may further assess and apportion upon said kindred such weekly amount as it finds sufficient for the future support of the pauper, which shall be paid quarterly until the further order of court; and upon application from time to time of the city, town or kindred, to whom it is ordered to be paid, the clerk of said court shall issue and may renew an execution for the arrears of any preceding quarter.

Further orders.
1793, 59, § 3.
R. S. 46, § 9.
G. S. 70, §§ 8, 11.
P. S. 84, §§ 10, 13.

Section 13. The court may, from time to time, upon application of any party interested, make further orders, alter such assessment and apportionment according to circumstances and may order with and by whom of such kindred as desire it, such pauper shall live and be relieved, and the length of time he shall live with different kindred, having regard to the comfort of the pauper as well as the convenience of the kindred.

Proceedings on complaints.
1793, 59, § 3.
R. S. 46, § 10.
G. S. 70, § 9.
P. S. 84, § 11.

Section 14. The complaint, made as provided in section eleven, shall be filed in the clerk's office, and a summons, directed to any officer qualified to serve civil process, shall be thereupon issued requiring the kindred therein named to appear and answer thereto; and it shall be served like an original summons.

Costs, how taxed.
1793, 59, § 3.
1834, 103.
R. S. 46, §§ 8, 12.
G. S. 70, §§ 7, 11.

Section 15. The court may award costs to either party and if it adjudges two or more of the kindred of a pauper to be of sufficient ability to contribute to his support, it shall tax no more costs against any one

respondent than is occasioned by his default or separate defence.

P. S. 84, §§ 9, 13.
10 Allen, 68.

SECTION 16. Upon suggestion that there are other kindred of ability not summoned in the original process, they may be summoned, and after due notice, whether they appear or are defaulted, the court may proceed against them in the same manner as if they had been summoned upon the original complaint.

Other kindred may be summoned.
1793, 59, § 3.
R. S. 46, § 11.
G. S. 70, § 10.
P. S. 84, § 12.

SECTION 17. The overseers of the poor, in their respective places, shall provide for the immediate comfort and relief of all persons residing or found therein, having lawful settlements in other places, when they fall into distress and stand in need of immediate relief, and until they are removed to the places of their lawful settlements. The expense thereof and of their removal, or burial in case of their decease, may be recovered in an action of contract against the place liable therefor, if commenced within two years after the cause of action arises, but nothing shall be recovered for relief furnished more than three months prior to notice thereof given to the defendant.[1]

Overseers to provide for immediate relief of strangers. Action.
1701–2, 9, § 2.
1793, 59, § 9.
R. S. 46, § 13.
G. S. 70, § 12.
P. S. 84, § 14.
5 Mass. 325.
6 Mass. 501.
11 Mass. 482.
14 Mass. 227.
2 Pick. 341.
8 Pick. 562.
12 Pick. 1.
17 Pick. 68.
13 Met. 196.
103 Mass. 119.
118 Mass. 506.
11 Gray, 107.
136 Mass. 424.
138 Mass. 109.
1 Allen, 23.
140 Mass. 402.
141 Mass. 580.
8 Allen, 73.
160 Mass. 506.
164 Mass. 506.

For what may be included in the reimbursement, see 1909, 292, p. 86, infra.

SECTION 18. A judgment for the plaintiff in such action shall be conclusive as to the settlement of such pauper in

Judgment conclusive.
1793, 59, § 9.

[1] Overseers of the poor in extending aid to a person "standing in need of immediate relief" are justified in extending such aid when in their best judgment upon the evidence presented and after vigilant inquiry such need exists; and reimbursement is recoverable against the place of settlement even though it may appear that the person relieved possessed property. *Palmer* v. *Hampden* (1903), 182 Mass. 511. But expenses to be recoverable must have been incurred within three months prior to notice. It is not sufficient that they be merely paid within that time. *East Sudbury* v. *Sudbury* (1831), 12 Pick. 1. Such recovery may be had within the provisions of this section for all expenses down to the date of the writ. *Northampton* v. *Plainfield* (1895), 164 Mass. 506. An action brought by one town against another for the support of a pauper will not bar an action against the same defendant by a third town for the support of the same pauper, because the parties plaintiff are not the same and there is no privity between them. See dictum in *Winthrop* v. *Athol* (1913), 216 Mass. 79. A right of action against the place of settlement will not bar an action against relatives legally bound to pay. *Hanover* v. *Turner* (1817), 14 Mass. 227. A notice signed by individuals as selectmen who are in fact overseers of the poor is sufficient. *Ashby* v. *Lunenburg* (1829), 8 Pick. 562.

R. S. 46, § 14.
G. S. 70, § 13.
P. S. 84, § 15.
103 Mass. 117.

any future action between the same parties for his support.[1]

Liability when pauper is removed.
1821, 94, § 3.
R. S. 46, § 15.
G. S. 70, § 14.
1873, 213.
P. S. 84, § 16.
21 Pick. 349.
13 Met. 198.
118 Mass. 506.
128 Mass. 148.

Section 19. If a pauper is supported in a place in which he has no settlement, the place liable for his support shall not be required to pay therefor more than at the rate of two dollars a week if it causes him to be removed within thirty days after receiving legal notice that such support has been furnished.[1]

Support and burial of indigent strangers.
1701–2, 9, § 2.
1788, 61, § 3.
1793, 59, § 13.
1830, 120, § 2.
R. S. 46, §§ 16, 32.
G. S. 70, § 15.
1867, 97.
1878, 256.
P. S. 84, § 17.
1887, 310, § 3.
1890, 71.
1898, 354.

Section 20. The overseers of the poor of each place shall also relieve and support and may employ all poor persons residing or found therein, having no lawful settlements within this commonwealth, until their removal to the state hospital, and if they die shall decently bury them. They shall also decently bury all deceased persons who, although without means of support while living did not apply for public relief, and all unknown persons found dead. The expense thereof may be recovered of their kindred, if any, chargeable by law for their support in the manner hereinbefore provided; and if the expense of their burial is not paid by such kindred, an amount not exceeding fifteen dollars for the funeral expenses of each pauper over twelve years of age, and not exceeding ten dollars for the funeral expenses of each pauper under that age, shall be paid by the commonwealth.

Aid to state paupers, when.
1821, 20.
1835, 127.
1855, 445, § 2.
1856, 171, § 2.
1857, 129.
1877, 183.
P. S. 84, § 18.
1886, 101, § 4.
1891, 90, § 1.

Section 21. [*Amended by 1903, 355, infra.*] A city or town may furnish aid to poor persons found therein, having no lawful settlements within the commonwealth, if the overseers of the poor consider it for the public interest; but, except in cases under the provisions of section fourteen of chapter eighty-five, not for a greater amount than two dollars a week for each family during the months of May to September, inclusive, or three dollars a week during the other months; and the overseers shall in every case give immediate notice in writing to the state board of charity, which

[1] An agreement of parties by which the plaintiff claim is paid together with costs and a non-entry of writ is filed does not constitute a "recovery" within the terms of § 18. *Wenham* v. *Essex* (1869), 103 Mass. 117. In computing time from the date, or day of the date, or from a certain act or event, the day of the date is excluded. *Seekonk* v. *Rehoboth* (1851), 8 Cush. 371. Hence, in the application of § 19, the day on which legal notice is received is excluded. See also *Bemis* v. *Leonard* (1875), 118 Mass. 502. The provisions of § 19 are to be construed strictly. Thus the removal, within thirty days after notice, of a dead pauper's corpse does not constitute a removal, and the relieving town is consequently not limited to the recovery named in the section. *Webster* v. *Uxbridge* (1847), 13 Met. 198.

shall examine the case and if it directs a discontinuance of such aid, shall remove such persons to the state hospital or to any state or place where they belong, if their necessities or the public interest requires it, and the superintendent of said hospital shall receive the persons removed thereto as if they were sent there in accordance with the provisions of section seven of chapter eighty-five. A detailed statement of expenses so incurred shall be rendered, and after approval by the state board, such expenses shall be paid by the commonwealth. [1] 1898, 425, § 5; 433, § 24.

[1903, 355.]

AN ACT RELATIVE TO THE REMOVAL OF STATE PAUPERS TO THE STATE HOSPITAL OR OTHER STATE INSTITUTIONS.

[*Amended by 1912, 331, infra.*]

SECTION 1. Section twenty-one of chapter eighty-one of the Revised Laws is hereby amended by adding at the end thereof the following: — If any such person refuses to submit to removal the state board of charity, or any of its officers or agents, may apply to the district, municipal or police court of the district where such person resides, or to any trial justice, for an order directing that such removal be made. Upon such application the court or magistrate shall forthwith cause a summons to be served upon the person so refusing, and, if he be a minor, upon his parent or guardian, requiring the attendance of the person so summoned at a time and place appointed therein for hearing; and at such time and place shall hear and examine upon oath such person or persons, and shall hear such other evidence as may be material. If upon hearing it appears that the person sought to be removed is without a legal settlement in this commonwealth and is unable to support himself, and that his necessities or the public interests require his removal, the court or magistrate shall issue an order in writing, directed to a duly constituted officer or agent of the state board of charity, reciting that such person appears to be a state pauper, and that his necessities or the public interests require his removal, and commanding such officer or agent to remove him to the state hospital or to any other state institution designated by the state board of charity, and such officer or agent shall thereupon make the removal as ordered. After the removal is made such officer or agent shall file such order, with his return thereon, with the clerk of the court from which it was issued, or if issued by a trial justice it shall be filed with him. In every case where removal is ordered a detailed statement of the expense incurred by any city or town for the support of the person so removed while application for his removal was pending before the court, shall be rendered, and after approval by the state board shall be paid by the commonwealth, — so as R. L. 81, § 21, amended.

[1] If the family of an unsettled person suffering from contagious disease dangerous to the public health, but not quarantined, is aided for the reason that such family are unable to maintain themselves, and are, therefore, a charge to the city or town where they are domiciled, such aid should be rendered by the overseers of the poor under the provisions of R. L., c. 81, § 21, the temporary aid law, so called, and subject to the restrictions therein contained. If the board of health of such city or town expends money for the support of the family of a person infected with a contagious disease, and therefore quarantined with his family, such expense is incurred for the preservation of the public health, and cannot be recovered either from the city or town where such persons are settled, or from the Commonwealth if such persons have no settlement. 3 Op. A. G., 137.

Cities and towns may furnish aid to certain state paupers, etc.

Removal to hospitals, etc.

to read as follows: — *Section 21.* A city or town may furnish aid to poor persons found therein, having no lawful settlements within the commonwealth, if the overseers of the poor consider it for the public interest; but, except in cases under the provisions of section fourteen of chapter eighty-five, not for a greater amount than two dollars a week for each family during the months of May to September, inclusive, or three dollars a week during the other months; and the overseers shall in every case give immediate notice in writing to the state board of charity, which shall examine the case and if it directs a discontinuance of such aid, shall remove such persons to the state hospital or to any state or place where they belong, if their necessities or the public interest requires it, and the superintendent of said hospital shall receive the persons removed thereto as if they were sent there in accordance with the provisions of section seven of chapter eighty-five. A detailed statement of expenses so incurred shall be rendered, and after approval by the state board, such expenses shall be paid by the commonwealth. If any such person refuses to submit to removal the state board of charity, or any of its officers or agents, may apply to the district, municipal or police court of the district where such person resides, or to any trial justice, for an order directing that such removal be made. Upon such application the court or magistrate shall forthwith cause a summons to be served upon the person so refusing, and, if he be a minor, upon his parent or guardian, requiring the attendance of the person so summoned at a time and place appointed therein for hearing; and at such time and place shall hear and examine upon oath such person or persons, and shall hear such other evidence as may be material. If upon hearing it appears that the person sought to be removed is without a legal settlement in this commonwealth and is unable to support himself, and that his necessities or the public interests require his removal, the court or magistrate shall issue an order in writing, directed to a duly constituted officer or agent of the state board of charity, reciting that such person appears to be a state pauper, and that his necessities or the public interests require his removal, and commanding such officer or agent to remove him to the state hospital or to any other state institution designated by the state board of charity, and such officer or agent shall thereupon make the removal as ordered. After the removal is made such officer or agent shall file such order with his return thereon, with the clerk of the court from which it was issued, or if issued by a trial justice it shall be filed with him. In every case where removal is ordered a detailed statement of the expense incured by any city or town for the support of the person so removed while application for his removal was pending before the court, shall be rendered, and after approval by the state board shall be paid by the commonwealth.

Section 2. This act shall take effect on the first day of July in the year nineteen hundred and three. [*Approved May 15, 1903.*

[1912, 331.]

An Act relative to reimbursing cities and towns for aid rendered to persons without settlement.

Section 1. Section twenty-one of chapter eighty-one of the Revised Laws, as amended by chapter three hundred and fifty-five of the acts of the year nineteen hundred

and three, is hereby further amended by inserting after the word "months", in the ninth line, the words: — except as otherwise ordered by the state board of charity, — so as to read as follows: — *Section 21.* A city or town may furnish aid to poor persons found therein, having no lawful settlements within the commonwealth, if the overseers of the poor consider it for the public interest; but, except in cases under the provisions of section fourteen of chapter eighty-five, not for a greater amount than two dollars a week for each family during the months of May to September, inclusive, or three dollars a week during the other months, except as otherwise ordered by the state board of charity; and the overseers shall in every case give immediate notice in writing to the state board of charity, which shall examine the case and if it directs a discontinuance of such aid, shall remove such persons to the state hospital or to any state or place where they belong, if their necessities or the public interest requires it, and the superintendent of said hospital shall receive the persons removed thereto as if they were sent there in accordance with the provisions of section seven of chapter eighty-five. A detailed statement of expenses so incurred shall be rendered, and after approval by the state board, such expenses shall be paid by the commonwealth. If any such person refuses to submit to removal the state board of charity, or any of its officers or agents, may apply to the district, municipal or police court of the district where such person resides, or to any trial justice, for an order directing that such removal be made. Upon such application the court or magistrate shall forthwith cause a summons to be served upon the person so refusing, and, if he be a minor, upon his parent or guardian, requiring the attendance of the person so summoned at a time and place appointed therein for hearing; and at such time and place shall hear and examine upon oath such person or persons, and shall hear such other evidence as may be material. If upon hearing it appears that the person sought to be

removed is without a legal settlement in this commonwealth and is unable to support himself, and that his necessities or the public interests require his removal, the court or magistrate shall issue an order in writing, directed to a duly constituted officer or agent of the state board of charity, reciting that such person appears to be a state pauper, and that his necessities or the public interests require his removal, and commanding such officer or agent to remove him to the state hospital or to any other state institution designated by the state board of charity, and such officer or agent shall thereupon make the removal as ordered. After the removal is made such officer or agent shall file such order, with his return thereon, with the clerk of the court from which it was issued, or if issued by a trial justice it shall be filed with him. In every case where removal is ordered a detailed statement of the expense incurred by any city or town for the support of the person so removed while application for his removal was pending before the court, shall be rendered, and after approval by the state board shall be paid by the commonwealth.

Section 2. This act shall take effect upon its passage. [*Approved March 28, 1912.*

For further provision as to what may be included in the reimbursement, see 1909, 292, p. 86, infra. For statute making lepers State charges, see 1909, 250, p. 253, infra.

Strangers to work in return for food and lodging. 1875, 70. P. S. 84, § 19. 1895, 445, § 1.

Section 22. [*Superseded in part by 1905, 344, infra.*] The overseers of the poor and the officer in charge of premises provided by a city or town for the purpose of supplying food or lodging on said premises may require any person applying for and receiving food or lodging to perform a reasonable amount of labor in return therefor, and may detain him for not more than twenty-four hours after the time of such application until the labor required of him as aforesaid has been performed.

[1905, 344.]

AN ACT RELATIVE TO THE LODGING OF TRAMPS AND VAGRANTS BY CITIES AND TOWNS.

Tramps, etc., to perform labor for lodging, etc., in certain cases, etc.

Cities and towns which provide lodging for tramps and vagrants shall require them, if physically able, to perform labor of some kind in return for the lodging and food furnished to them; and the places in which such persons are lodged shall be kept in such order and condition as may be prescribed by the state board of health. [*Approved April 26, 1905.*

Paupers to work in almshouse. 1895, 445, § 2. 186 Mass. 342.

SECTION 23. A person who receives aid in an almshouse or workhouse of a city or town may be required by the officer in charge thereof to perform such labor as the official physician shall certify to be suited to his age, strength and capacity.

See also 1905, 344, supra.

Penalty for refusal to work. 1895, 445, § 3. 1898, 443, § 1.

SECTION 24. Whoever refuses or neglects to perform any labor required of him under the provisions of the two preceding sections, or while performing such labor wilfully damages any property of the city or town requiring the same, shall be punished, in the county of Suffolk, by imprisonment in the house of correction for not more than one year, and in other counties, in the house of correction for a like term, or at the state farm.

Towns may establish hospitals. 1873, 192. P. S. 84, § 20.

SECTION 25. A city or town may erect, establish and maintain a hospital for the reception of persons who by misfortune or poverty require relief during temporary sickness. City councils and selectmen may make such ordinances, rules and regulations as they may consider expedient for the appointment of trustees and all other officers and agents necessary for managing such hospital.

For hospital records, see 1905, 330, as amended by 1908, 269.

What children placed with infant asylums. 1867, 230, § 3. P. S. 84, § 21. 1883, 232, § 1. 1886, 101, § 4.

Section 26. The overseers of the poor of a city or town and the superintendent and board of trustees of the state hospital may place deserted and destitute infants in the care of the Massachusetts Infant Asylum or St. Mary's Infant Asylum, and such amount as may be agreed upon shall be paid for the temporary support of such infants; but such overseers and the state board of charity shall use all reasonable care to collect the cost of such temporary support from parties justly chargeable with the same, and to remove infants which were not born in this commonwealth or have no settlement therein.

Institutions to comply with certain laws. 1870, 92, § 1. P. S. 84, § 22.

Section 27. An incorporated charitable institution to which the custody of an infant less than four years of age has been delegated by state, city or town officers charged with the custody of destitute children shall comply with all the provisions of law, and be subject to all the restrictions concerning such infant, applicable to such officers.

— may place out abandoned children, when. 1870, 92, § 3. P. S. 84, § 23.

Section 28. If an infant lawfully in the custody of a charitable institution as aforesaid has been wilfully deserted and abandoned for more than four months by its parents or natural guardians, the officers of such institution may procure any suitable person in this commonwealth to take and support such child for such time as may be specified in a written agreement made for that purpose, not exceeding the time when the child shall be fourteen years old. The form and conditions of such agreement shall be prescribed by the state board of charity, and the agreement, with a descriptive list of the origin, name, age and person of the infant, so far as known, and the name, residence and recommendations of the person taking the child, shall be returned to the state board in such form as it may prescribe. All such children shall be subject to the visitation and control provided by law for children put out or apprenticed from state institutions; but nothing herein contained shall diminish the legal rights of parents, guardians and next of kin.

Judge of probate to authorize removal of minors from state.
1868, 279, §§ 1, 2.
P. S. 84, §§ 24, 25.
199 Mass. 527.

SECTION 29. Overseers of the poor shall not remove, nor allow the removal of, a minor under their control beyond the limits of the commonwealth without the approval of the judge of probate, granted upon application and after notice to all parties interested and a hearing unless such minor has a settlement in another state. Nor shall they withhold information relative to the maintenance of such minor from any person entitled to receive the same. Whoever violates the provisions of this section shall be punished by a fine of not more than five hundred dollars.

Pauper may be removed out of state, when.
1868, 328, § 2.
P. S. 84, § 26.

SECTION 30. A person who has actually become chargeable as a pauper to a city or town in which he has a settlement and who subsequently acquires a settlement in a place out of this commonwealth, may be removed thereto by the overseers of the poor of such city or town by a written order directed to any person therein designated.

Towns liable to individuals.
1742–3, 18, § 4.
1793, 59, § 13.
R. S. 46, § 18.
G. S. 70, § 16.
P. S. 84, § 27.
2 Mass. 547.
15 Mass. 286.

SECTION 31. Every city and town shall be liable for any expense necessarily incurred for the relief of a pauper therein by any person who is not liable by law for his support, after notice and request made to one or more of the overseers thereof, and until provision is made by them.[1]

19 Pick. 473.
7 Met. 214.
4 Cush. 199.
6 Cush. 399.
10 Cush. 3.
9 Allen, 134.
105 Mass. 533.
113 Mass. 47.
116 Mass. 353.
124 Mass. 286.
145 Mass. 115.

Pauper may be removed to place of settlement.
1793, 59, §§ 10, 12.
R. S. 46, § 19.

SECTION 32. The overseers of a place to which a person has actually become chargeable may give written notice thereof to, and request his removal by, one or more of the

[1] Under § 31 it is necessary that a person rendering aid shall have given notice within the terms of the section. Thus actual notice on the part of the overseers is not sufficient. *Walker* v. *Southbridge* (1849), 4 Cush. 199. And it must be an unequivocal claim upon the town, calling upon them to assume the burden. *O'Keefe* v. *Northampton* (1878), 124 Mass. 115; *Williams* v. *Braintree* (1850), 6 Cush. 399. The term "therein" is to be strictly construed. *Hawes* v. *Hanson* (1864), 9 Allen, 134. Expenses are not incurred "necessarily" within the provisions of this section where they constitute the rental of a tenement from which the pauper was able to be removed to the town almshouse. *Rawson* v. *Uxbridge* (1873), 113 Mass. 47. Nor where they are made with knowledge that other adequate relief has been provided by the town. *Phelps* v. *Westford* (1878), 124 Mass. 286.

G. S. 70, § 17.
P. S. 84, § 28.
1 Pick. 470.
23 Pick. 156.
4 Met. 433.
13 Met. 199.

overseers of the place where his settlement is supposed to be, who may, by an order in writing, directed to a person therein designated, cause such removal to be made.[1]

5 Allen, 545.
103 Mass. 117.
124 Mass. 117.
138 Mass. 256.
152 Mass. 484.
167 Mass. 579.
186 Mass. 524.

Process in case of removal.
1766–7, 17, § 7.
1793, 59, § 12.
R. S. 46, § 20.
G. S. 70, § 18.
P. S. 84, § 29.
1891, 90, § 2.
1 Mass. 517.
1 Pick. 470.
23 Pick. 156.
9 Allen, 91.
103 Mass. 117.
117 Mass. 445.
124 Mass. 117.
131 Mass. 10.
145 Mass. 535.

Section 33. If, within one month after receiving such notice, the overseers of the latter place do not cause such removal to be made or a statement in writing signed by one or more of them of their objections to the removal to be transmitted to the overseers requesting such removal, the overseers who requested the removal may, by a written order directed to a person therein designated, cause the pauper to be removed to the place of his supposed settlement; and the overseers thereof shall receive and provide for him; and such place shall be liable in an action to the place incurring the same for the expenses of his support and removal, and shall be barred from contesting the question of settlement in such action unless the settlement is denied in said statement.[2]

For further provisions as to what may be included in the liability, see 1909, 292, p. 86, infra.

[1] The notice provided in § 32 is defective if it contains a material error in the name of the pauper. *Boston* v. *Acton* (1897), 167 Mass. 579; Or a mistake as to the number of children in the pauper's family. *Carver* v. *Taunton* (1891), 152 Mass. 486; see also, *Granville* v. *Southampton* (1884), 138 Mass. 256. But not so in case the town notified waives the defect by replying without objection to the form of the notice. *Brookfield* v. *N. Brookfield* (1905), 186 Mass. 524; *Northfield* v. *Taunton* (1842), 4 Met. 433. Neither is a town barred from showing settlement of a pauper gained by certain means though in their notice to the defendant town they in good faith indicated other means as the basis for the settlement. *Idem.* A defective notice may be cured by subsequent correction in writing which refers to the first communication. *Shelburne* v. *Rochester* (1823), 1 Pick. 470. The reply to a valid notice must be signed by some one of the overseers to be effective; if not, it is more than defective, since it is not made by the proper person in authority. Consequently it cannot be cured by estoppel. *Petersham* v. *Colrain* (1864), 9 Allen, 91. Where notice is sent by the relieving town and is replied to within the requirements of this section, the town sought to be charged is not estopped from controverting settlement by its failure to reply to a second notice involving the same subject matter sent by the relieving towns within two years after the first notice. *Mashpee* v. *Edgartown* (1839), 23 Pick. 156. Though failure to reply to proper notice estops the town sought to be charged from denying the fact of settlement, such estoppel does not extend to proof that the person aided was not in need of immediate relief. *New Bedford* v. *Hingham* (1875) 117 Mass. 445.

[2] Under § 33 recovery may be had for expenses of burial of a pauper as well as for support and removal. *Topsham* v. *Harpswell* (1805), 1 Mass. 517.

Notices, etc., sent by mail; effect.
1828, 142, § 1.
R. S. 46, § 21.
G. S. 70, § 19.
P. S. 84, § 30.
16 Mass. 110.

SECTION 34. The notice and statement mentioned in the two preceding sections may be sent by mail; and if directed to the overseers of the poor of the place intended to be notified or answered, postage prepaid, shall be a sufficient notice or answer, and shall be considered as delivered to the overseers to whom it is directed at the time when it is received in the post office of the place to which it is directed and in which they reside.

Penalty for leaving paupers where not settled.
1788, 61, § 9.
1793, 59, § 15.
R. S. 46, § 24.
1849, 66.
G. S. 70, § 20.
P. S. 84, § 31.
16 Mass. 393.

SECTION 35. Whoever brings into and leaves a poor and indigent person in any place in this commonwealth, wherein such person is not lawfully settled, knowing him to be poor and indigent, and with intent to charge such place with his relief or support, shall forfeit not more than one hundred dollars for each offence, to the use of such place.[1]

1 Pick, 465. 21 Pick. 83. 102 Mass. 216. 105 Mass. 336. 199 Mass. 527.

—for false representations.
1891, 343.
1898, 433, § 24.
199 Mass. 527.

SECTION 36. Whoever knowingly and wilfully makes any false representations in writing to the overseers of the poor, to their agent or to the state board of charity or its agents, for the purpose of causing any person to be supported in whole or in part as a pauper by a city or town or by the commonwealth, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year.

Estate of deceased pauper, by whom sold.
1817, 186, § 6.
1837, 54.
1858, 26.
G. S. 70, § 21.
P. S. 84, § 32.
6 Pick. 462.
160 Mass. 503.
196 Mass. 63.
199 Mass. 527.
3 Op. A. G. 132.

SECTION 37. Upon the death of a pauper who at his decease is actually chargeable to a place within this commonwealth, the overseers of the poor thereof may take possession of all his real and personal property; and if administration is not taken upon his estate within thirty days after his decease, they may in their own names sell and convey so much thereof as may be necessary to reimburse

[1] In a prosecution under § 35, evidence that a pauper was receiving aid as such from the Commonwealth at the time of his removal into the plaintiff town is not competent to prove that he did not have a settlement in that town. *Franklin* v. *Fuller* (1870), 105 Mass. 336. A constable acting under orders from the overseers of the poor which state that the pauper is settled in the place to which he removes him and that he is actually on the expense of their town is not chargeable under § 35, even though the order does not on its face state that the requirements of the statute have been complied with. *Sturbridge* v. *Winslow* (1838), 21 Pick. 83.

the expenses incurred for the pauper. If any part of such property is withheld from said overseers, they may in their own names sue for and recover possession of the real property, and shall have the same remedy for the recovery of the personal property or its value as an administrator might have in like case.

Overseers may prosecute.
1793, 59, § 14.
R. S. 46, § 26.
G. S. 70, § 22.
1863, 240, § 2.
P. S. 84, § 33.
199 Mass. 527.

Section 38. In all actions and prosecutions founded on the provisions of the preceding sections, the overseers of the poor of any place or any person appointed by a writing under their hands shall appear and prosecute or defend the same in behalf of such place.[1]

— to keep records of paupers.
1867, 209, § 1.
P. S. 84, § 34.
1901, 177.

Section 39. Overseers of the poor shall keep full and accurate records, in a form prescribed by the state board of charity, of the paupers fully supported, the persons relieved and partially supported, and the travellers and vagrants lodged at the expense of their cities and towns and of the amount paid for such support and relief.

For act prohibiting the publication of names of paupers in reports, see Acts 1910, 412, p. 86, post.

— to make annual return.
1837, 194, § 1.
1841, 116, § 1.
1844, 146.
1864, 307, § 6.
1867, 209, § 2.

Section 40. They shall annually, in April, for the year ending on the last day of March, return to the state board of charity the number of such persons supported and relieved, the cost thereof, and a record of those fully supported. 1875, 216. P. S. 84, § 35. 1886, 101, § 4.

For the duties of the State Board of Charity with reference to these returns, see R. L., c. 84, § 4, as amended by 1909, 208, p. 130, infra.

— to make decennial returns.
1837, 194, § 1.
1848, 247, § 1.
G. S. 70, § 23.
1875, 216.
P. S. 84, § 36.

Section 41. [*Revised by 1905, 115, infra.*] In the year nineteen hundred and five and in every tenth year thereafter the return of the overseers of the poor shall contain true and correct answers to the following inquiries: —

How many persons have been relieved or supported by your town during the year ending September 30? Of those, how many have a legal settlement in your town? How many are foreign born and of what nationalities

[1] The term "prosecute" in § 38 includes the bringing as well as the carrying on of such an action. *Great Barrington* v. *Gibbons* (1908), 199 Mass. 527.

are they? How many state paupers have you sent to the state hospital? How many of the poor assisted in your town or sent to the state hospital were foreigners? How many of your insane do you support in state insane hospitals? How many of your idiotic poor are in the Massachusetts School for the Feeble-Minded? Have you an almshouse? How many acres of land are attached to your almshouse? What is the estimated present value of your almshouse establishment? Real estate? Personal? How many persons have been supported in your almshouse during the whole or any part of the year? What is the average number supported in the almshouse? What is the average weekly cost of supporting each pauper in the almshouse? How many inmates of your almshouse have been unable to perform any kind or amount of labor? What is the estimated value of all the labor performed by the poor in your almshouse? How many persons, including their families, have you supported outside of the almshouse during the whole or a portion of the year? What is the average weekly cost of supporting each pauper outside of the almshouse? How many have you aided outside of the almshouse? How many have you supported or relieved who were insane? How many who were idiots? How many persons, relieved or supported during the year in your town, have become dependent by reason of insanity or idiocy? How many of your poor, supported at the public charge, have been made dependent by their own intemperance? How many by the intemperance of those who ought to have been their supporters? What is the total net amount of expense of supporting or relieving the poor in your town during the year, including interest on your almshouse establishment? How many are supported in your almshouse at the present time? How many are supported outside of the almshouse at the present time? How many are assisted outside of the almshouse at the present time?

They shall, at the same time, make correct returns of the name, age and sex of every child in such city or town under fourteen years of age who is supported at the public charge.

[1905, 115.]

An Act relative to decennial returns of overseers of the poor.

R. L. 81, § 41, amended.

Section forty-one of chapter eighty-one of the Revised Laws is hereby amended by striking out the said section and inserting in place thereof the following: — *Section 41.* In the year nineteen hundred and five and in every tenth year thereafter the return of the overseers of the poor shall contain true and correct answers to such additional inquiries as the state board of charity may deem it advisable to make. [*Approved February 28, 1905.*

Decennial returns of overseers of the poor.

For duties of the State Board of Charity with reference to these returns, see R. L., c. 84, § 4, as amended by 1909, 208, p. 130, infra.

Penalty for failure.
1837, 194, § 3.
G. S. 70, § 24.
1867, 209, § 3.
P. S. 84, § 37.

Section 42. If the overseers of the poor of a city or town refuse or neglect to comply with the requirements of the three preceding sections, such city or town shall forfeit one dollar for each day's neglect, and the amount of such forfeiture shall be deducted from any amount to which said city or town may be entitled in reimbursement for relief of state paupers as provided in sections fifteen and sixteen of chapter eighty-five; and if no such reimbursement shall be due to said city or town, the forfeiture shall be deducted from any money which may be due to it from the commonwealth.

Semi-annual returns relative to children.
1871, 370, § 1.
P. S. 84, § 38.

Section 43. Overseers of the poor shall make and forward returns, on or before the tenth day of January and July in each year, to the state board of charity relative to all minor children over the age of four years who are supported at the expense of such city or town in an almshouse or elsewhere on the first day of said months. Said returns shall be made in such form and shall contain such information relative to said minor children as may be prescribed by the state board.

Information to overseers, of deposits.
1852, 132, §§ 1, 3.
G. S. 57, §§ 151, 153.
1876, 203, § 25.
P. S. 116, § 43.
1894, 317, § 48.
1898, 425, § 6.

Section 44. A treasurer of a savings bank, institution for savings, benefit association, insurance company or safe deposit company who, upon request in writing signed by an overseer of the poor of a city or town, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request who is a charge upon such city or town as a pauper, or who wilfully renders false information in reply to such request, shall forfeit for each offence fifty dollars, to the use of such city or town.

ADDITIONAL LEGISLATION.

[1913, 763.]

AN ACT TO PROVIDE FOR SUITABLY AIDING MOTHERS WITH DEPENDENT CHILDREN.

Cities and towns to furnish aid to mothers with dependent children.

SECTION 1. In every city and town the overseers of the poor shall, subject to the provisions of the subsequent sections of this act, aid all mothers with dependent children under fourteen years of age, if such mothers are fit to bring up their children. The aid furnished shall be sufficient to enable the mothers to bring up their children properly in their own homes; and such mothers and their children shall not be deemed to be paupers by reason of receiving aid as aforesaid.

Duties of overseers of the poor.

SECTION 2. Before aiding any mother under the foregoing section, except as hereinafter provided, the overseers of the poor shall determine that the mother is fit to bring up her children and that the other members of the household and the surroundings of the home are such as to make for good character, and that aid from the overseers is necessary to enable her to bring up her children properly, by making an immediate and careful inquiry including the resources of the family and the ability of its other members, if any, to work or otherwise contribute to its support, the existence of relatives able to assist the family, and of individuals, societies or agencies who may be interested therein; shall take all lawful means to compel all persons bound to support the mother and children to support them, and to enforce any other legal rights for their benefit; shall press all members of the family who are able to work, other than the mother and her dependent children, to secure work; shall try to secure work for them; and shall secure all necessary aid for the mother and children which can be secured from relatives, organizations or individuals. Nothing herein contained shall be construed to prevent the overseers from giving prompt

and suitable temporary aid hereunder, pending compliance with the requirements of this section, when in their opinion such aid is necessary and cannot be obtained from other sources. A detailed statement of expenses incurred under this section shall be rendered to the state board of charity, together with such certificates or other guarantees as the said board may require.

Same subject.

Section 3. The said overseers, either by one of their own number or by their duly appointed agent, shall visit at least once in every three months at their homes or other place or places where they may be living, each mother and her dependent children who are being aided financially or otherwise by said overseers, and after each visit shall make and keep on file as a part of their official records a detailed statement of the condition of the home and family and all other data which may assist in determining the wisdom of the measures taken and the advisability of their continuance; and said overseers shall at least once in each year reconsider the case of each mother with dependent children with whom they are dealing, and enter their determination with the reason therefor on their official records.

To whom this act shall apply.

Section 4. This act shall apply to all mothers and their dependent children, whether or not they or any of them may have a settlement within the commonwealth, who shall have resided in the commonwealth not less than three years. No person shall acquire a settlement or be in process of acquiring a settlement while receiving aid hereunder.

State Board of Charity to have supervision, etc.

Section 5. The state board of charity shall hereafter supervise the work done and measures taken by the overseers of the poor of the several cities and towns in respect to families in which there is one child or more under the age of fourteen, whether or not such family or any member thereof has a settlement within the commonwealth; and for this purpose may establish such rules relative to notice as they deem necessary and may visit and inspect any or all families aided under this act, and shall have

access to any records and other data kept by the overseers of the poor or their representatives relating to such aid; and said board shall, in its annual report to the legislature, report upon the work done by its own agents and by the overseers of the poor in respect to such families any of whose members are without legal settlement in the commonwealth; and shall make a separate report on the work done by the overseers of the poor in respect to such families in which all the members have a legal settlement in the commonwealth.

Reimbursement of cities and towns by the Commonwealth.

SECTION 6. In respect to all mothers in receipt of aid hereunder the city or town rendering the aid shall be reimbursed by the commonwealth, after approval of the bills by the state board of charity, for one third of the amount of the aid given. If the mother so aided has no settlement, the city or town shall be reimbursed for the total amount of the aid given, after approval of the bills by the state board of charity as aforesaid. If the mother so aided has a lawful settlement in another city or town two thirds of the amount of such aid given may be recovered in an action of contract against the city or town liable therefor in accordance with the provisions of chapter eighty-one of the Revised Laws and acts in amendment thereof and in addition thereto.

Appropriation.

SECTION 7. For the purpose of reimbursing the cities and towns, as provided in the foregoing section, there shall be appropriated from the treasury of the commonwealth the sum of fifty thousand dollars for the operations of the first year.

Repeal.

SECTION 8. All acts and parts of acts inconsistent herewith are hereby repealed.

Time of taking effect.

SECTION 9. This act shall take effect on the first day of September, nineteen hundred and thirteen. [*Approved June 12, 1913.*

For the protection of minors in the religious belief of their parents, see 1905, 464, p. 117, infra. See also 1913, 266, p. 60, supra, providing that certain needy persons shall not be termed paupers.

[1909, 292.]

AN ACT TO PROVIDE FOR REIMBURSING CITIES AND TOWNS FOR MEDICAL ATTENDANCE OR TREATMENT FURNISHED TO PAUPERS.

Cities and towns may be reimbursed for medical attendance furnished to paupers, etc.

SECTION 1. Reasonable compensation for medical attendance or treatment furnished by a city or town under the provisions of chapter eighty-one or chapter eighty-five of the Revised Laws may be included in the expenses to be paid to such city or town by any other city or town, or by the commonwealth; although such attendance or treatment was by a city or town physician whose compensation is by a fixed or annual salary. Such reimbursement shall not exceed the proportionate cost to the city or town furnishing the attendance or treatment, based upon the total number of visits annually made in relation to the total fixed or annual salary of the physician for all services rendered by him in his official capacity.

SECTION 2. This act shall take effect upon its passage. [*Approved April 12, 1909.*

[1910, 412.]

AN ACT RELATIVE TO ANNUAL AND OTHER REPORTS OF CITY AND TOWN OFFICIALS.

Publication of names of persons aided prohibited.

SECTION 1. No city or town, and no department or official of any city or town in this commonwealth, shall publish in any annual or other report for general distribution to the public, or to the citizens of any city or town, the names of persons assisted in any way by the poor department of any city or town, or the names of any persons receiving aid under the provisions of chapter seventy-nine of the Revised Laws and acts in amendment thereof and in addition thereto, residing in such city or town.

SECTION 2. This act shall take effect upon its passage. [*Approved April 16, 1910.*

[1915, 163, Gen.]

AN ACT RELATIVE TO THE SUPPORT OF DESTITUTE PARENTS.

Failure to support parent under certain condition punishable by fine.

SECTION 1. Any person, above the age of twenty-one years, who, being possessed of sufficient means, unreasonably neglects or refuses to provide for the support and maintenance of his parent, whether father or mother, residing in this commonwealth, when such parent through misfortune and without fault of his own is destitute of means of sustenance and unable by reason of old age, infirmity or illness to support and maintain himself or herself, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. No such neglect or refusal shall be deemed unreasonable as to a child who shall not during his or her minority have been reasonably supported by such parent, if the parent was charged with the duty so to do, nor as to any child who, being one of two or more children, has made proper and reasonable contribution toward the support of such destitute parent.

Court may order in conformity with uniform desertion act.

SECTION 2. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty or after conviction, the court may, in its discretion, make such orders and require such conditions for the benefit of such destitute parent as are provided for in the case of a wife or a minor child by chapter four hundred and fifty-six of the acts of the year nineteen hundred and eleven and acts in amendment thereof and in addition thereto, and the practice thereby established shall, so far as it is applicable, apply to proceedings under this act.

Complaint, by whom made.

SECTION 3. Complaints under the provisions of this act may be made by any such parent, by any child of such a parent, by the overseers of the poor of the city or town in which the parent has a settlement or by any other public relief officer. Proceedings under this act may be begun in the municipal, district or police court having jurisdiction

of the place where the defendant lives, and if there be no such court, then in any municipal, district or police court in the county; or in the municipal, district or police court having jurisdiction of the place where the parent lives; and if there be no such court, then in any municipal, district or police court in the county. If no court has jurisdiction as aforesaid, proceedings may be begun before a trial justice in the county where the defendant or the parent lives. [*Approved April 12, 1915.*

ILLEGITIMATE CHILDREN.

R. L. CHAPTER 82.

OF THE MAINTENANCE OF BASTARD CHILDREN.

[*Repealed by 1913, 563, infra.*]

Complaint.
C. L. 55, § 2.
1692–3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 1.
1846, 266, § 1.
1853, 57, § 11.
1857, 300.
1859, 239, § 1.
G. S. 72, § 1; 116, § 17.
1866, 292, § 2.
1875, 15, § 11.
1876, 227, §§ 4, 6.
P. S. 85, § 1.
1885, 289.
1897, 237, § 2.
6 Pick. 104.
3 Met. 209.
13 Met. 372.
6 Cush. 111.
13 Gray, 538.

Section 1. [*Amended by 1904, 159, infra.*] Upon complaint of a woman who has been delivered of a bastard child, or who is pregnant with a child, which, if born alive, may be a bastard, to a police, district or municipal court, to a clerk thereof or to a trial justice, against the man whom she accuses of being the father of the child, the court, clerk or trial justice shall take her accusation and examination, in writing under oath, relative to the person accused, the time when and place where the complainant was begotten with child, and such other circumstances as the court, clerk or trial justice considers necessary for the discovery of the truth of such accusation. The court, clerk or trial justice may issue a warrant against the person accused, which may be returnable before the same or any other court or trial justice having jurisdiction thereof in the county. The warrant shall run throughout the commonwealth, and any officer qualified to serve civil or criminal process in any county, to whom it is directed, may serve it and apprehend the defendant in any county.[1]

15 Gray, 50.
2 Allen, 402.
3 Allen, 149, 479.
4 Allen, 365, 435.
5 Allen, 209, 301.
9 Allen, 459.
10 Allen, 389.
13 Allen, 472.
14 Allen, 155.
104 Mass. 224.
110 Mass. 152.
119 Mass. 167.
133 Mass. 559.
143 Mass. 182, 449.
150 Mass. 292.
151 Mass. 532.
153 Mass. 369, 428.
172 Mass. 167.
174 Mass. 117.
175 Mass. 469.

[1] A complaint under this act partakes both of the nature of a criminal and a civil suit. *Hill* v. *Wells* (1828), 6 Pick. 104. The complainant is a competent witness to any facts tending to establish the paternity of the child even though such facts be known to others. *Connelly* v. *Burrill* (1852), 10 Cush. 492. A difference in the statement of the date when the child was begotten between the examination and the declaration is not fatal to the process. Such difference of statement affects only the credit of the complaining witness. *Sayles* v. *Fanning* (1859), 13 Gray, 538. So also with a variance in the place where the child was begotten. *Kennedy* v. *Shea* (1872), 110 Mass. 152. A complaint alleging the time and place of begetting may be supported where the proof shows two separate acts of intercourse at different times and places and the mother does not know at which the child was begotten. *Bassett* v. *Abbott*

[1904, 159.]

AN ACT RELATIVE TO THE MAINTENANCE OF BASTARD CHILDREN.

[Repealed by 1913, 563, infra.]

SECTION 1. Section one of chapter eighty-two of the Revised Laws is hereby amended by inserting before the word "police", in the third line, the words: — justice of a, — by striking out before the word "court", in the fifth, ninth and tenth lines, respectively, the word "the", and inserting in place thereof the words: — such justice of a, — and by striking out after the word "before", in the twelfth line, the words "the same or", and before the word "court", in the same line, the word "other", — so as to read as follows: — *Section 1.* Upon complaint of a woman who has been delivered of a bastard child, or who is pregnant with a child, which, if born alive, may be a bastard, to a justice of a police, district or municipal court, to a clerk thereof or to a trial justice, against the man whom she accuses of being the father of the child, such justice of a court, clerk or trial justice shall take her accusation and examination, in writing under oath, relative to the person accused, the time when and place where the complainant was begotten with child, and such other circumstances as such justice of a court, clerk or trial justice considers necessary for the discovery of the truth of such accusation. Such justice of a court, clerk or trial justice may issue a warrant against the person accused, which may be returnable before any court or trial justice having jurisdiction thereof in the county. The warrant shall run throughout the commonwealth, and any officer qualified to serve civil or criminal process in any county, to whom it is directed, may serve it and apprehend the defendant in any county.

R. L. 82, § 1, amended.

Complaints in bastardy cases.

Warrants.

SECTION 2. This act shall take effect upon its passage. [*Approved March 17, 1904.*

As to entry fee. See 2 Op. A. G. 22 (Feb. 18, 1899). For venue, see Kennedy v. McLellan (1907), 193 Mass. 528.

(1855), 4 Gray, 69. Inasmuch as the town chargeable for the support of the child should it fall into distress, has a direct interest in the outcome of the complaint, it is not competent for an inhabitant of such town to act as a juror in the trial of the case. *Hawes* v. *Justice* (1861), 2 Allen, 402. Under a complaint brought by a married woman living with her husband, it is incumbent upon the complainant to prove that the husband could not have been the father, since *prima facie* every child born in wedlock is presumed to be legitimate. Consequently a charge to the jury that the complainant "must satisfy" the jury that her husband is not the father is insufficient. *Sullivan* v. *Kelly* (1861), 3 Allen, 148. So positive must be the proof that the presumption in favor of the legitimacy of the child cannot be rebutted by proof of the mother's adultery while she is cohabiting with her husband. *Hemmenway* v. *Towner* (1861), 1 Allen, 209. But the process for bastardy, under c. 82, being civil in its nature it is in general sufficient to prove the charge by a preponderance of evidence. *Richardson* v. *Burleigh* (1861), 3 Allen, 479. Chapter 563 of the Acts of 1913, repealing chapter 82 of the Revised Laws, constitutes the complaint a criminal process. Consequently in trials thereunder, the charge must be established beyond a reasonable doubt. Under the former statute a jury might find one to be guilty of being the father of a bastard child upon the evidence of the mother alone, taken in connection with the record of the preliminary proceedings in the case. *Noonan* v. *Brogan* (1862), 3 Allen, 481. Evidence of intercourse with other men than the defendant more than ten calendar months before the birth of the child is inadmissible, if there is no evidence that the period of gestation was unusually protracted. *Eddy* v. *Gray* (1862), 4 Allen, 435; *Sabins* v. *Jones* (1875), 119 Mass. 167. Neither is evidence competent that the complainant was in the habit of associating with young men whose reputation for chastity was bad. *Idem.*

Complainant, if woman refuses.
1859, 239, § 3.
G. S. 72, § 2.
1863, 240, § 2.
1879, 291, § 3.
P. S. 85, § 2.
1886, 101, § 4.
1898, 433, § 24.
1900, 129.
3 Allen, 477, 481.
8 Allen, 334.

Section 2. If a woman who is entitled to make a complaint refuses or neglects so to do when requested by an overseer of the poor of the place where she resides or has her settlement, or by one of the state board of charity, or by the superintendent of the state hospital, or by a person authorized by any of them to make the request, or by either of her parents or her guardian, the person so requesting may make the complaint; and if, after it has been made, she dies, or refuses or neglects to prosecute the same, any of said persons may prosecute the case to final judgment for the benefit of the parent, guardian, city, town or commonwealth.

10 Allen, 389. 138 Mass. 370. 193 Mass. 529.

Complaint by state pauper, where made.
1859, 239, §§ 2, 6.
G. S. 72, § 3.
P. S. 85, § 3.
193 Mass. 529.

Section 3. If such woman is an inmate of the state hospital, a complaint by her or in her behalf may be made either in the county in which she then is, or in the county in which she last had her usual place of abode before becoming such inmate, and the warrant shall be returnable in the latter county or the county in which the defendant resides. If a complaint is made in the county of Suffolk, by or in behalf of an inmate of the house of correction at Deer Island, the warrant shall be returnable before the municipal court of the city of Boston.

Release from arrest. Bond.
1871, 42, § 1.
P. S. 85, § 4.
113 Mass. 268.

Section 4. A person who is arrested upon such warrant may be released upon giving a bond with sufficient surety or sureties, in not less than three hundred dollars, for his appearance before the court or trial justice having jurisdiction of the complaint, at a time to be specified in said bond.

Form of bond, etc.
1871, 42, § 2.
1875, 109.
P. S. 85, § 5.
1891, 367.
1899, 262.

Section 5. The bond shall be made to the party for whose benefit the complaint is made or prosecuted, and the sureties may be examined and the bond approved by a justice, special justice or clerk of a police, district or municipal court, by a trial justice or by a bail commissioner or master in chancery.

Continuance of hearings.
1863, 127, § 1.
P. S. 85, § 6.
1891, 367.

Section 6. The court or trial justice may continue from time to time the hearing of such complaint, may take a bond from the defendant to the complainant, in a sufficient sum and with sufficient surety or sureties, with condition that he will appear before the court or trial justice at any time to which the hearing of the complaint may be continued, and from time to time thereafter, until the final disposition of said complaint before said court or trial justice and not depart without leave; and may order him to be committed until he gives such bond, which may be approved as provided in the preceding section.

Removal of case to superior court.
1863, 127, § 2.
P. S. 85, § 7.
126 Mass. 233.
143 Mass. 126.
153 Mass. 369.

Section 7. If the defendant does not appear before the court or trial justice at any time to which the hearing is continued, or departs without leave, his default shall be recorded, and the bond, a copy of the complaint and warrant and of the record of the court or trial justice shall be transmitted to the superior court in the same county, and the complaint shall be there entered and determined in the manner herein provided in similar cases. If, on the final hearing, the defendant is adjudged by the superior court to be the father of the child of which he is accused, the bond shall be security for the performance by him of any order of the court under the provisions of section fifteen.

Surrender of principal by surety.
1856, 34, § 1.
1863, 127, § 3.
P. S. 85, § 8.
3 Allen, 153.
176 Mass. 231.

Section 8. The surety on a bond given under the provisions of section six may surrender the principal to the court or trial justice before whom the complaint is pending, or to the superior court if the complaint is pending therein, and upon such surrender, the bond shall be void and the court or trial justice to whom the surrender is made may require a new bond from the defendant, with sufficient surety or sureties, and the defendant shall

stand committed until he gives it; but if the surrender is made in the superior court, the new bond shall be for the appearance of the defendant to answer to the complaint in, and abide the order of, said court.

Defendant may be bound over to superior court. G. S. 72, § 4. P. S. 85, § 9. 1885, 384, § 5.

Section 9. The court or trial justice before whom the warrant is returnable may after due hearing require the defendant to give bond with sufficient surety or sureties to appear and answer to the complaint at the next return day of the superior court, and abide the order of the court thereon; and may order him to be committed until such bond is given.

13 Met. 372.
11 Cush. 197.
2 Allen, 402.
3 Allen, 153.
8 Allen, 334.
108 Mass. 233.
110 Mass. 152, 317.
113 Mass. 268.
116 Mass. 198, 263, 360.
119 Mass. 167, 228.
138 Mass. 367.
143 Mass. 126.
150 Mass. 292, 451.
153 Mass. 369.
157 Mass. 417.
167 Mass. 543.
174 Mass. 117.
193 Mass. 528.

Notice to complainant, etc. 1863, 127, § 4. P. S. 85, § 10. 1885, 384, § 5.

Section 10. If the court or trial justice requires the defendant to give bond under the provisions of the preceding section, or if the defendant makes default, the court or trial justice shall, before the next return day of the superior court in the same county, if the complaint was made by the woman entitled to make the same, send written notice by mail or otherwise to the person authorized to make the complaint under the provisions of section two that such complaint has been made, and that the defendant has been required to give bond, or has made default, as the case may be.

Surrender of principal to jailer, when. 1878, 48. P. S. 85, § 11. 3 Allen, 151.

Section 11. A surety upon a bond given under the provision of section six may, if the court in which the complaint is pending is not in session, surrender his principal to the keeper of any jail in the county in which the complaint is pending. The surety shall deliver to the jailer a copy of the bond, attested by the officer having custody thereof, which shall be a sufficient warrant to the jailer, although the surrender and commitment prove to be unlawful on the part of the surety. Such surrender shall have the same effect as a surrender under the provisions of section eight, and like proceedings may be had thereafter.

Discharge of defendant on non-entry, how. 1865, 161. P. S. 85, § 12. 1885, 384, § 5.

Section 12. [*Amended by 1905, 345, infra.*] If the defendant is committed under the provisions of section nine and the complaint is not entered at the return day of the superior court at which he was required to appear, he may make application to said court to be discharged; and if it appears, after such notice as the court may order, that there is no ground to hold him to answer further to the complaint, the court shall order him to be discharged.

[1905, 345.]

An Act relative to imprisonment in bastardy cases.

[Repealed by 1913, 563, infra.]

R. L. 82, § 12, amended.

Section 1. Section twelve of chapter eighty-two of the Revised Laws is hereby amended by adding at the end thereof the following: — If after entry the complainant neglects or refuses to prosecute such complaint, the district attorney, upon notification from a probation officer or from the keeper of the jail in which such defendant is confined that the proceedings have been unreasonably prolonged, shall bring the case to the attention of the superior court which, after such notice to the complainant and such investigation as it shall deem necessary, may order the defendant to be discharged, — so as to read as follows: — *Section 12.* If the defendant is committed under the provisions of section nine and the complaint is not

Defendants in bastardy cases may be

discharged in certain cases.

entered at the return day of the superior court at which he was required to appear, he may make application to said court to be discharged; and if it appears, after such notice as the court may order, that there is no ground to hold him to answer further to the complaint, the court shall order him to be discharged. If after entry the complainant neglects or refuses to prosecute such complaint, the district attorney, upon notification from a probation officer or from the keeper of the jail in which such defendant is confined that the proceedings have been unreasonably prolonged, shall bring the case to the attention of the superior court which, after such notice to the complainant and such investigation as it shall deem necessary, may order the defendant to be discharged.

Section 2. This act shall take effect upon its passage. [*Approved April 26, 1905.*

Continuance of cause.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 2.
G. S. 72, § 5.
P. S. 85, § 13.
12 Pick. 195.
3 Allen, 151, 153.
119 Mass. 59.
138 Mass. 369.

Section 13. If, at the sitting of the superior court to which the defendant is held to answer, such woman has not been delivered or is not able to attend, or if there is any other sufficient reason therefor, the court may order a continuance of the cause, and the bond shall remain in force until final judgment; but if the sureties thereon, at any time, object to being longer held liable, or if the court finds it proper, a new bond may be required, and the defendant shall stand committed until it is given.

Discharge after commitment, how.
1856, 34, § 2.
G. S. 72, § 6.

Section 14. If the defendant is committed on account of inability to give bond, he shall be discharged from imprisonment at any time thereafter upon giving the required bond, approved in the manner provided in section five. P. S. 85, § 14. 1898, 157.

Trial by jury.
C. L. 55, § 2.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 4.
G. S. 72, § 7.
P. S. 85, § 15.
2 Mass. 155.
5 Mass. 517.
14 Mass. 386.
4 Gray, 69.
3 Allen, 481.
108 Mass. 233.
112 Mass. 60.
113 Mass. 268.
118 Mass. 569.

Section 15. Upon the trial of the complaint, the issue to the jury shall be whether the defendant is guilty or not guilty. If the jury find him guilty, or if he is defaulted, he shall be adjudged by the court to be the father of such child, and shall stand charged with the maintenance thereof, with the assistance of the mother, in such manner as the court shall order, and shall give bond with sufficient surety or sureties to perform said order, and to idemnify and save harmless against all charges of maintenance the parents of the mother and any city or town or the commonwealth chargeable with the maintenance of such child; and he may be committed until he gives such bond. If the jury find him not guilty, the court shall order him to be discharged. The verdict in either case shall be final.

128 Mass. 211. 145 Mass. 18. 194 Mass. 292.

Mother of child may testify.
C. L. 55, § 2.
1692-3, 18, § 5.
1785, 66, § 2.
R. S. 49, § 3.
1857, 305, § 1.
1859, 239, § 4.
G. S. 72, § 8.
P. S. 85, § 16.
5 Pick. 63.
8 Pick. 559.
3 Cush. 537.

Section 16. The mother of the child shall be admitted as a witness in support of the complaint, and may be compelled to testify; but her admissions shall not be used against her in any criminal prosecution, except for perjury committed while so testifying. If, upon examination under the provisions of section one and also in the time of her travail, she accuses the same man of being the father of the child of which she is about to be delivered, and continues constant in such accusation, her accusation in time of travail may be put in evidence upon the trial to corroborate her testimony.

10 Cush. 285, 492. 11 Gray, 376.
2 Allen, 406. 116 Mass. 198. 150 Mass. 292.
4 Allen, 435. 123 Mass. 365. 153 Mass. 378.
7 Allen, 136. 143 Mass. 182, 449. 185 Mass. 73.
103 Mass. 46. 148 Mass. 66. 186 Mass. 168.

Withdrawal of complaint.
1859, 239, § 5.
G. S. 72, § 9.

Section 17. If any of the persons authorized by the provisions of section two have intervened as therein provided, no complaint instituted by the mother shall be withdrawn, dismissed or settled by agreement be-

tween her and the putative father without the consent of the person so intervening unless provision is made, to the satisfaction of the court, to relieve and indemnify any parent, guardian, city, town or the commonwealth from all charges which have accrued or may accrue for the maintenance of the child, and for the costs of complaint and prosecution thereof.

P. S. 85, § 17.
4 Allen, 59.
9 Allen, 461.
121 Mass. 533.

Section 18. No settlement made by the father and mother, before or after the complaint is made, shall relieve the father from liability to any city or town or the commonwealth for the support of a bastard child.

Liability of father for support.
1859, 239, § 5.

G. S. 72, § 10. P. S. 85, § 18. 160 Mass. 232.

Section 19. Officers named in section two may, with the consent of the mother or of her parent or guardian, compromise such complaint on receipt of a fixed sum, or of security for the payment thereof, for the benefit of the city, town or commonwealth, as the case may be.

Compromise after complaint.
1862, 213.
P. S. 85, § 19.
4 Allen, 59.

Section 20. If the defendant has been imprisoned ninety days for a failure to comply with an order of the superior court, as provided in this chapter, he shall have the benefit of the laws for the relief of poor debtors committed on execution if he causes the notice required by the provisions of section thirty-three of chapter one hundred and sixty-eight to be served upon the clerk of the city or town in which the child of which he is the reputed father has its legal settlement, if there is such place in the commonwealth, and upon the parties to the record, thirty days at least before the time appointed for taking the oath.

Defendant may take poor debtor's oath.
1825, 173.
R. S. 49, § 5.
G. S. 72, § 11.
P. S. 85, § 20.
3 Allen, 151.
153 Mass. 428.

Section 21. The mother of such child, and said city or town or the commonwealth, respectively, may, at any time after the liberation of the defendant or after taking said oath, recover by action of contract any amount of money for which he is liable to them respectively in pursuance of such order of court.

Remedy by action.
1825, 173.
R. S. 49, § 6.
G. S. 72, § 12.
P. S. 85, § 21.
153 Mass. 428.

Section 22. Prosecutions under the provisions of this chapter, except as herein otherwise expressly provided, shall be according to the course of proceedings in civil cases, and shall not be entertained at a sitting of the superior court held exclusively for the transaction of criminal business; but they may be tried before police, district or municipal courts when sitting for civil or criminal business.

Prosecutions, civil.
1851, 96, §§ 1, 2.
G. S. 72, § 13.
1863, 127, § 5.
P. S. 85, § 22.
3 Cush. 537.
6 Cush. 64, 111.

9 Gray, 253.
4 Allen, 365.
5 Allen, 301.
103 Mass. 50.
105 Mass. 234.
108 Mass. 233.
138 Mass. 369.
145 Mass. 18.
167 Mass. 543.
174 Mass. 117.
194 Mass. 292.

Section 23. The complainant shall not be required to pay or give security for the support of the defendant if he is committed to prison by virtue of the provisions of this chapter; nor shall the defendant be discharged from imprisonment although payment is not made or security given for his support.

Complainant not to support defendant in prison.
1852, 187.
G. S. 72, § 14.
P. S. 85, § 23.

[1913, 563.][1]

An Act relative to illegitimate children and their maintenance.

Section 1. Whoever, not being the husband of a woman, gets her with child shall be guilty of a misdemeanor. Proceedings under any section of this act may be begun in the municipal, district or police court having jurisdiction

Courts having jurisdiction of complaints in cases of maintenance, etc., of illegitimate children.

[1] See notes, p. 88, *supra*.

in the place where the defendant lives, and if there be no such court, then in any municipal, district or police court in the county; or in the municipal, district or police court having jurisdiction in the place where the mother of the illegitimate child lives; and if there be no such court, then in any municipal, district or police court in the county. If no court has jurisdiction as aforesaid, proceedings may be begun before a trial justice in the county where such defendant or such mother lives.[1]

Adjudication to be final unless appeal is made to superior court.

Section 2. If the defendant pleads guilty or nolo contendere, or is found guilty, the court or justice shall enter a judgment adjudging him the father of such child; but such adjudication shall not be made after a plea of not guilty, against the objection of the defendant, until the child is born or the court or justice finds that the mother is at least six months advanced in pregnancy. No provision of law limiting adjournments or continuances shall apply to proceedings under any section of this act. At the sitting when such adjudication is made, if made after a plea of not guilty, the defendant may appeal therefrom to the superior court as in other criminal cases. Such adjudication, whether any sentence be imposed or not, shall be final and conclusive unless an appeal from such adjudication to the superior court be taken as hereinbefore provided, or, if such adjudication be made by the superior court, unless set aside upon an appeal taken

[1] Process under the former act was not confined to cases where the child was living when such process was begun, nor was it limited to obtaining security and indemnity for the future maintenance of a child from the putative father. *Meredith* v. *Wall* (1867), 14 Allen, 155. No complaint would lie under the former statute where the child was not born alive, since, until born, it could not become the subject of maintenance. *Schramm* v. *Stephan* (1882), 133 Mass. 559. Testimony as to the complainant's accusation at the time of travail was admissible at trial even though such accusation were not set out in the complaint. *Bowers* v. *Wood* (1886), 143 Mass. 182. And the mother was a competent witness to show that at such time she did accuse the defendant. *Reed* v. *Haskins* (1874), 116 Mass. 198. Such an accusation was held to be within "the time of her travail" if made after the child is delivered but before the cord is severed. *Tacy* v. *Noyes* (1886), 143 Mass. 449. *Sed quaere* whether the period would continue till the delivery of the placenta. *Bacon* v. *Harrington* (1827), 5 Pick. 63. The cause of action accrued at the time when complaint could first be made. *Leonard* v. *Bolton* (1891), 153 Mass. 428. And a conveyance of property by the respondent after such date with intent to defeat the recovery could be attacked for fraud equally with any such conveyance in fraud of his creditor. *Idem.*

not later than three days thereafter under the provisions of section thirty-two of chapter two hundred and nineteen of the Revised Laws, or upon exceptions. Such adjudication may be entered by the superior court notwithstanding exceptions have been alleged or an appeal has been taken. The court or justice making such adjudication may within one year thereafter grant a new trial for any cause.[1]

New trial may be granted for cause.

Section 3. If the court or justice having jurisdiction of any case under any section of this act becomes satisfied that no living child will be born of which the defendant at the time of making the complaint was the father, or that the defendant and the mother have married each other and the child has become or will be the legitimate child of the defendant, or that adequate provision has been made for the maintenance of the child, the complaint may be dismissed and any adjudication vacated; and if the court or justice certifies that such provision has been made, no further complaint shall be maintained under any section of this act.

Complaint may be dismissed in certain cases, etc.

Section 4. If the child has not been born at the time of such adjudication, the court or justice having jurisdiction of the case shall continue the case from time to time until the child is born. At any time after such adjudication, after inquiring into the respective means of the defendant and the mother, the court or justice having jurisdiction of the case may make an order for the payment to the mother or to a probation officer of a sum of money to be determined by the court or justice for the expenses of the confinement of the mother, and for failure to comply with such order may order that the defendant

Court may make order for payment of money by defendant for certain expenses.

Penalty for failure to comply with order of the court.

[1] A bastardy process under the former statute was not transferred to the superior court by "appeal or removal." The superior court exercised an original and not an appellate jurisdiction. The case might therefore be tried in the superior court on certified copies of the papers in the inferior court. *Biggani* v. *Ross* (1879), 126 Mass. 233. Upon trial in the superior court it was too late for the defence to object for the first time to the jurisdiction of the inferior court. *Davis* v. *Sylvester* (1890), 150 Mass. 451; *Prince* v. *Gundaway* (1892), 157 Mass. 417. An order of the lower court discharging the respondent ended the proceedings and the superior court had no jurisdiction to entertain the appeal of the complainant. *Jennings* v. *Browne* (1897), 167 Mass. 543.

be committed to jail, as for a contempt of court, for a term not exceeding two months, unless he shall sooner comply with the order of the court.[1]

Court may make order relative to care, etc., of children.

Section 5. After such adjudication, the court or justice having jurisdiction of the case may make such order as may be considered expedient relative to the care and custody of the child, and afterward from time to time may revise and alter the said order, as justice and the welfare of the child require, and the order shall be binding on all persons.

Liability of defendant for support of child, etc.

Section 6. After such adjudication, and after the child has been born, the defendant shall be liable to contribute reasonably to the support of the child during minority, and shall be subject upon the original complaint under section one of this act, to all the penalties and all the orders for the support and maintenance of the child provided in the case of a parent who is found guilty of unreasonably neglecting to provide for the support and maintenance of a minor child by chapter four hundred and fifty-six of the acts of the year nineteen hundred and eleven and acts in amendment thereof and in addition thereto; and the practice thereby established shall, so far as it is applicable, apply to proceedings under this section and the preceding sections of this act.

Penalty for neglect to provide for support of child, etc.

Section 7. Any father of an illegitimate child, whether such child shall have been begotten within or without this commonwealth, and whether such child shall have been begotten before or after the taking effect of this act, who neglects or refuses to contribute reasonably to the support and maintenance of such child shall be guilty of a misdemeanor, and, upon conviction thereof, shall be liable to all the penalties and all the orders for the support of the child provided in the case of a parent who is found guilty of

[1] An order of maintenance could not issue, under the former statute, until after an adjudication that the respondent was the putative father of the child. *Commonwealth* v. *Lydia Clark* (1806), 2 Mass. 156. The putative father could not be charged for lying-in expenses inasmuch as they represent no part of the maintenance of the child. *Commonwealth* v. *Cole* (1809), 5 Mass. 517.

unreasonably neglecting to provide for the support and maintenance of a minor child by chapter four hundred and fifty-six of the acts of the year nineteen hundred and eleven and acts in amendment thereof and in addition thereto; and the practice thereby established shall, so far as it is applicable, apply to proceedings under this section. If there has been any final adjudication under this act, such judgment, order or adjudication shall be conclusive on all persons in proceedings under this section; otherwise, the question of paternity shall be determined in proceedings under this section: *provided, however,* that no proceedings shall be maintained under the provisions of this act in any case where proceedings have been begun under chapter eighty-two of the Revised Laws and acts in amendment thereof or in addition thereto.

Final adjudication to be conclusive, etc.

Proviso.

Section 8. Appealed proceedings under this act shall be placed on the trial list for each sitting of the superior court for the trial of criminal cases until tried, and shall have precedence next after the cases mentioned in section thirty-two of chapter one hundred and fifty-seven of the Revised Laws.

Proceedings in case of appeal.

Section 9. Chapter eighty-two of the Revised Laws and all acts in amendment thereof or in addition thereto are hereby repealed; but this repeal shall not affect any proceeding begun before the first day of July, in the year nineteen hundred and thirteen.

Repeal not to affect certain proceedings.

Section 10. This act shall take effect on the first day of July in the year nineteen hundred and thirteen. [*Approved April 26, 1913.*

Time of taking effect.

For the settlement of illegitimate children, see R. L. 80, § 1, cl. 3, p. 54, and 1911, 669, § 1, cl. 4, p. 58, supra.

PROTECTION OF INFANTS. CARE OF PAUPER CHILDREN.

For provisions relating to the adoption of children, see R. L. 154, p. 270, infra.

For provisions relating to feeble-minded children, see 1906, 508; 1909, 504, §§ 59–65.

For act establishing the Boston Juvenile Court, see 1906, 489, p. 198, infra.

For provisions relating to juvenile offenders, see R. L. 86, p. 169, and 1906, 413, p. 189, infra.

R. L. CHAPTER 83.

OF THE PROTECTION OF INFANTS AND THE CARE OF PAUPER CHILDREN.

Sections 1–19. — Protection of Infants.
Sections 20–25. — Care of Pauper Children.
Sections 26–28. — Care of Children under Seven Years of Age.
Sections 29–35. — Care of Destitute and Abandoned Children.
Sections 36–39. — Care of Children under Sixteen Years of Age.

Protection of Infants.

Definition of infant boarding house. 1889, 416, § 2. 1892, 318, § 2. 162 Mass. 596.

Section 1. Whoever for hire, gain or reward has in his custody or control at one time two or more infants under the age of two years unattended by a parent or guardian, except infants related to him by blood or marriage, for the purpose of providing them with care, food and lodging shall be deemed to maintain a boarding house for infants.

Infant boarding houses to be licensed. 1889, 416, § 3. 1892, 318, §§ 3, 4. 162 Mass. 596.

Section 2. The state board of charity may grant licenses to maintain boarding houses for infants. Every application therefor shall, except in Boston, first be approved by the board of health of the city or town in which such boarding house is to be maintained. Such license shall be granted for a term not exceeding one year, shall state the name of the licensee, the particular premises in which the business may be carried on, the number of infants which may be boarded there at one time, and, if required by said board, it shall be posted in a conspicuous place on the licensed premises. No greater number of

infants shall be kept at one time on the premises than is authorized by the license, and no infant shall be kept in a building or place not designated in the license. A record of licenses issued shall be kept by the state board of charity, which shall forthwith give notice to the board of health of the city or town in which the licensee resides of the granting of such license and of the terms thereof. The state board of charity and boards of health of cities and towns except Boston shall annually, and may, at any time, visit and inspect, or designate a person to visit and inspect, premises so licensed.

Revocation of license. 1889, 416, § 3. 1892, 318, §§ 3, 6. 162 Mass. 596.

Section 3. The state board of charity may revoke such license in its discretion, and shall note such revocation upon the face of the record thereof. It shall give written notice of such revocation to the licensee by delivering the notice to him in person or by leaving it on the licensed premises.

Records by licensee. 1892, 318, § 5. 162 Mass. 596.

Section 4. Every such licensee shall keep a record, in a form to be prescribed by the state board of charity, of every infant received, the date of its reception, the name and address of the person from whom it was received, the date of its discharge and the name and address of the person to whom it was delivered on discharge.

Penalty for maintaining unlicensed boarding houses. 1892, 318, § 1.

Section 5. Whoever maintains a boarding house for infants, unless licensed thereto by the state board of charity, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Notice of reception to state board. 1892, 318, § 7. 1897, 395, § 3. 162 Mass. 596.

Section 6. Whoever receives under his care or control, and whoever places under the care or control of another for compensation, an infant under two years of age, which is not related by blood or marriage to the person receiving it, shall, within two days thereafter, give notice thereof, and of the terms upon which such infant was received, to the state board of charity, with the name, age and residence of the infant, its parents and the persons from whom or by whom respectively it was received; but if such

infant was received from the overseers of the poor of any city or town or from the trustees for children of the city of Boston or from any charitable institution incorporated in this commonwealth, such notice may state only the name and age of such infant and the name and location of the board or institution from which it was received.[1]

Investigation by board. 1892, 318, § 8.

Section 7. The state board of charity, upon receipt of such notice or of any information of such reception, may investigate the case and make such recommendations as it deems expedient. If they are not complied with, it may apply to a justice of the supreme judicial court, superior court, police, district or municipal court, or to a judge of probate, who, after notice to the parents of such infant or to the persons delivering and receiving it, may make and enforce appropriate orders for the care, custody, protection and maintenance of such infant, and on notice may from time to time revise said orders.

Penalties. 1892, 318, § 9. 162 Mass. 596.

Section 8. Whoever neglects to give the notice required by section six or refuses to give information upon request of said board or to comply with the orders of a court made in accordance with the provisions of the preceding section shall, upon complaint of an agent of said board thereto authorized, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Abandonment of infant. 1892, 318, §§ 10–12. 1897, 395, § 3.

Section 9. Whoever gives to any person an infant under two years of age for the purpose of placing it for hire, gain or reward under the permanent control of another person shall be deemed guilty of the abandonment of such infant and shall, if a man, be punished by impris-

[1] The language of § 6 includes any person who receives under his care, etc., an infant, etc., and is not governed by § 1, which defines the keeping of a boarding house for infants to be the keeping for hire of two or more infants apart from their parents, etc. Consequently any person who so takes an infant under two years into his care for a consideration, with an agreement to care for the same for a period of ten days, is guilty of violating the statute if he fails to notify the State Board of Charity within ten days (*Commonwealth* v. *Johnson* (1895), 162 Mass. 596), and this is so even though he may have given up the child within an hour after receiving it. *Idem.*

onment in the house of correction, and if a woman, in the reformatory prison for women, for not more than two years. Whoever for hire, gain or reward receives such an infant for the purpose of placing it under the control of any other person shall be deemed guilty of aiding and abetting the abandonment of such infant and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years. The provisions of this section shall not apply to the state board of charity, to the overseers of the poor of any city or town, to the trustees for children of the city of Boston, to any incorporated charitable institution or to the officers or agents thereof.

Abandonment of infant. 1882, 270, §§ 1, 2. 1889, 309, § 1.

Section 10. [*Amended by 1905, 269; 1911, 500, infra.*] Whoever abandons an infant under two years of age within or without any building, or, being its parent and having made a contract for its board or maintenance, absconds or fails to perform such contract, and who for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neither visits nor removes such infant nor notifies the overseers of the city or town in which he resides of his or her inability to support such infant shall be punished by imprisonment, if a man, in the house of correction, or, if a woman, in the reformatory prison for women, for not more than two years; or, if the infant dies by reason of such abandonment, for not more than five years. Whoever knowingly and with wrongful intent aids or abets in abandoning such infant shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years.

[1905, 269.]

An Act relative to the abandonment of children by parents or others.

[*Amended by 1911, 500.*]

R. L. 83, § 10, amended.

Section ten of chapter eighty-three of the Revised Laws is hereby amended by striking out the word "two", in the first line, and inserting in place thereof the word: — ten, — and by inserting after the word "parent", in the second line, the words: — or being under a legal duty to care for it, — so as to read as follows: — *Section 10.*

Penalty for abandonment of infants.

Whoever abandons an infant under ten years of age within or without any building, or, being its parent, or being under a legal duty to care for it, and having made a contract for its board or maintenance, absconds or fails to perform such contract, and who for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neither visits nor removes such infant nor notifies the overseers of the city or town in which he resides of his or her inability to support such infant shall be punished by imprisonment, if a man, in the house of correction, or, if a woman, in the reformatory

prison for women, for not more than two years; or, if the infant dies by reason of such abandonment, for not more than five years. Whoever knowingly and with wrongful intent aids or abets in abandoning such infant shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years. [*Approved April 6, 1905.*

[1911, 500.]

AN ACT RELATIVE TO THE ABANDONMENT OF CHILDREN BY PARENTS OR OTHERS.

R. L. 83, § 10, amended.

Section ten of chapter eighty-three of the Revised Laws, as amended by chapter two hundred and sixty-nine of the acts of the year nineteen hundred and five, is hereby further amended by inserting after the word "overseers", in the ninth line, the words: — of the poor, — so as to read as follows: —

Penalty for abandonment of infants.

Section 10. Whoever abandons an infant under ten years of age within or without any building, or, being its parent, or being under a legal duty to care for it, and having made a contract for its board or maintenance, absconds or fails to perform such contract, and who for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neither visits nor removes such infant nor notifies the overseers of the poor of the city or town in which he resides of his or her inability to support such infant shall be punished by imprisonment, if a man, in the house of correction, or, if a woman, in the reformatory prison for women, for not more than two years; or, if the infant dies by reason of such abandonment, for not more than five years. Whoever knowingly and with wrongful intent aids or abets in abandoning such infant shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two years. [*Approved May 27, 1911.*

Adoption of infants. 1892, 318, § 13.

SECTION 11. Whoever receives an infant under two years of age for adoption or for giving it a home or for procuring a home or adoption for it shall, before receiving

the same, ascertain its name, age and birthplace, and the name and residence of its parent or parents, and shall keep a record of the same, and of the date of such reception. He shall forthwith upon the reception of said infant give notice in writing thereof to the state board of charity, and upon request of said board shall give information and render the reports concerning such infant required by it; and within two days after its discharge shall give notice in writing to said board of the discharge and disposal of such infant. Said state board may investigate the case, and, at any time previous to a decree of adoption, take any such infant into its custody, if in the judgment of said board the public interest and the protection of the infant so requires.

Infant may be placed in care of board of charity. 1892, 318, § 14.

SECTION 12. The parents, surviving parent or guardian of an infant under three years of age, if unable to support it, may in writing, with the consent of the state board of charity, place such infant in its charge if said board considers such action for the public interest; and said board may receive such infant and shall thereupon have its custody in the same manner and to the same extent as if it were committed thereto under the provisions of section thirty-seven.

Board may care for certain illegitimate infants. 1892, 318, § 15.

SECTION 13. The mother of an illegitimate infant under two years of age, who is a resident of this commonwealth and who has previously borne a good character, may, in writing signed by her, and with the consent of said state board of charity, give up such infant to said board for adoption; and said state board, if it deems such action for the public interest, may, in its discretion and on such conditions as it may impose, receive such infant and provide therefor. Such surrender by the mother shall operate as a consent by her to any adoption subsequently approved by said board.

Relationship a defence, when. 1892, 318, § 2.

SECTION 14. In any prosecution under the provisions of the preceding sections of this chapter, except section ten, a defendant who relies in defence upon the relationship of

any of said infants to himself shall have the burden of proof thereof.

Special district police officer authorized. 1885, 158. 1895, 310. 1898, 483.

Section 15. The governor, upon the written recommendation of the state board of charity, may appoint a special district police officer for a term of three years, who shall be subject to removal at any time by the governor, shall serve without pay, shall have and exercise throughout the commonwealth the powers of a district police officer in all cases arising under the provisions of this chapter, and, under the direction of said board, shall cause the provisions of this chapter to be enforced.

For like provisions relating to the Massachusetts Society for the Prevention of Cruelty to Children, see 1903, 333.

Notice to board of health. 1876, 158. P. S. 80, §§ 60, 61.

Section 16. Whoever engages in the business of taking nursing infants or infants under three years of age to board, or of entertaining or boarding more than two such infants in the same house at the same time, shall, within two days after the reception of every such infant other than the first two, give notice thereof in writing to the board of health of the place where such infant is to be so boarded, stating its name and age and the name and residence of the person so taking it to board. The board of health may enter and inspect such house or premises while such business is there carried on, and may direct and enforce the necessary sanitary precautions relative to such children and premises. Whoever violates the provisions of this section or refuses admission to the board of health shall be punished by a fine of not less than fifty nor more than five hundred dollars.

Legitimacy to be ascertained. 1889, 309, § 2. 1891, 194. 1899, 276.

Section 17. Whoever receives an infant under the age of three years for board or for the purpose of procuring adoption shall use due diligence to ascertain whether it is illegitimate, and if he knows or has reason to believe that it is, he shall forthwith notify the state board of charity of such reception. The members, officers or agents of said board may enter and inspect any building where they have

reason to believe such illegitimate infant is boarded and remove it, if they believe that, by reason of neglect, abuse or other cause, its removal is necessary to preserve its life. Such infant shall be in the custody of said board which shall make provision therefor according to law.

Information may be required. 1882, 270, § 3. 1889, 309, § 3. 1891, 194.

Section 18. Whoever receives an infant for board or for the purpose of procuring adoption, as described in the preceding section, and its parents shall, if required by the state board of charity or its officers, give true answers, so far as their knowledge extends, as to the parentage, residence and place of settlement of said infant; and the parent or parents of such child shall, if required by the state board of charity or the overseers of the poor of the city or town in which the person receiving said infant resides, give satisfactory security to said board or overseers for its maintenance.

Penalties. 1882, 270, § 3. 1889, 309, § 4.

Section 19. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

Care of Pauper Children.

Custody of unsettled infants. 1883, 232, § 3. 1886, 101, § 4. 1893, 217. 1898, 433, § 24.

Section 20. The overseers of the poor of a city or town and the superintendent and board of trustees of the state hospital shall commit any indigent or neglected infants which have no known settlement in this commonwealth to the custody of the state board of charity, which shall provide for them in the Massachusetts Infant Asylum or in St. Mary's Infant Asylum or in a family or other suitable place, as it deems expedient for the interests of the child.

Notice to state board of reception of infants. 1870, 136, § 1. P. S. 86, § 44. 1883, 232, § 2.

Section 21. If an infant which has no known settlement in this commonwealth is received by the Massachusetts Infant Asylum or St. Mary's Infant Asylum, agreeably to the provisions of their charters, except as provided in the preceding section, immediate notice of such reception shall be given in writing by the directors of said asylums to the state board of charity, which may examine

the case and remove such infant, if expedient. The expense incurred by the asylum for the support of such infant, after the bills for the same have been approved by the state board, shall be reimbursed by the commonwealth to an amount not exceeding four dollars a week for each infant; but the commonwealth shall be under no obligation to reimburse the asylum for any expense incurred for the support of any such infant for a period of more than one week prior to the giving of the notice herein provided for.

Authority of board in such cases.
1870, 136, § 2.
P. S. 86, § 45.

Section 22. The state board of charity shall have the same authority relative to any such infant as it has relative to infants in the state hospital.

Provision if asylums are full.
1880, 142, § 1.
P. S. 86, § 46.
1882, 181, § 1.
1883, 232, § 3.

Section 23. If said asylums are full of inmates, or if from sickness or other sufficient cause it is not expedient to receive or retain an infant legally committed thereto who is a state pauper, the state board of charity shall provide for such infant in a proper family or other suitable place, under the constant supervision of its medical officers, until it reaches the age of three years or is otherwise provided for by the state board of charity.

Expenses.
1880, 142, § 2.
P. S. 86, § 47.

Section 24. The cost of maintaining such infant shall be paid from the appropriation for the support of infants having no known settlement in the commonwealth.

Care of indigent children.
1882, 181, § 2.
1886, 101, §§ 4, 5.
1895, 428, § 1.
1898, 433, § 24.

Section 25. [*Amended by 1911, 490, § 1.*] The state board of charity shall make all necessary provision for the care and maintenance of poor and indigent children between the ages of three and sixteen years who are in need of immediate relief and who have no lawful settlement in this commonwealth.

[1911, 490, § 1.]

An Act relative to the protection of infants and the care of pauper children.

Section 1. Section twenty-five of chapter eighty-three of the Revised Laws is hereby amended by striking out the word "sixteen", in the third line, and inserting in place thereof the words: — twenty-one, — so as to read as follows: — *Section 25.* The state board of charity shall

make all necessary provision for the care and maintenance of poor and indigent children between the ages of three and twenty-one years who are in need of immediate relief and who have no lawful settlement in this commonwealth. [*Approved May 27, 1911.*

State board to care for unsettled children, etc.

CARE OF CHILDREN UNDER SEVEN YEARS OF AGE.

SECTION 26. An agent of the state board of charity, especially authorized thereto, may enter without actual force any building or room in which such agent has reason to believe that a child under the age of seven years is sheltered or maintained apart from his parents and is not receiving proper care. The agent shall investigate the case and make report to the superintendent of state minor wards or other designated officer of the board, and such officer may, if he considers such removal necessary for the protection of the child from neglect or abuse, cause such child, if he is not under the personal care of a parent or guardian, to be removed to the custody of the board. An agent who is refused such entry or who is hindered in the removal of such child may make complaint on oath to a justice of a court of record, who may thereupon issue a warrant authorizing him to obtain sufficient aid and at any reasonable time to enter the building designated, and every part thereof, for the purpose of investigating the treatment and condition of the child or children found there, and to remove all or any of such children as herein provided.

Duties of agents of state board as to infants under seven years of age. 1900, 254, § 1.

SECTION 27. The agent shall forthwith notify the state board of charity of his doings, and the board shall thereupon decide whether to retain such child in its custody or to restore him to his parent or guardian or to the place from which he was removed. It shall have, as to a child so retained, the powers and duties which it has as to neglected children committed to its custody by the courts. But the board, unless within a reasonable time it secures the commitment of such child, under the provisions of

— of board. 1900, 254, §§ 2–4.

section thirty-seven, shall, upon request, discharge such child to his legal guardian, and if he has no guardian then to his father, and if he has no father then to his mother. The board may notify the person from whose care or custody a child has been taken under the provisions of the preceding section that no child of which he is not the legal guardian shall, without a permit from the board, be received or maintained by him. The board shall apply to the probate court for the removal of the guardian of any child under seven years of age who is unsuitable for his trust.

Penalty. 1900, 254, § 5.

Section 28. Whoever obstructs or hinders the state board of charity or its officers or agents in the execution of the duties and powers imposed or conferred by the provisions of the two preceding sections or, after notice as aforesaid, receives a child without having a permit therefor shall be punished by a fine of not more than one hundred dollars for the first offence, and by a fine of not more than one hundred dollars or by imprisonment for not more than six months for a subsequent offence.

Care of Destitute and Abandoned Children.

Massachusetts Society for Prevention of Cruelty to Children may be appointed guardian. 1879, 179, § 1. P. S. 48, § 22.

Section 29. If it appears to the judge of probate of any county that a minor under fourteen years of age resident therein is without a guardian, and is entirely abandoned, or is treated with gross and habitual cruelty by his parent or other person who has the care or custody of him, or that he is illegally deprived of his liberty, he may for such period as he sees fit, appoint the Massachusetts Society for the Prevention of Cruelty to Children as his guardian, and may, at any time, for good cause, revoke such appointment. Said society, upon such appointment, shall be entitled to the exclusive custody of said child, but shall not be entitled to the management of his property.

— may receive children under fourteen years from parents. 1879, 179, § 2. P. S. 48, § 23.

Section 30. The parents, surviving parent or guardian of a child under fourteen years of age, if unable to support him, may by an agreement in writing, fixing the terms of

the custody, place him in the charge of said society, which shall thereupon have custody of him as provided in the preceding section.

Custody of deserted children. 1879, 179, § 3. P. S. 48, § 24.

SECTION 31. A judge of any court, upon the complaint of said society that a child under five years of age has been abandoned and deserted in a public way or place, or in a vacant building, may give the custody of such child to said society for not more than thirty days. The society shall thereupon give such notice thereof, as the judge may order, by advertisement in a newspaper published in the county where such child is found; and such child, if claimed by its parents, parent or guardian, may be returned to them by said judge.

Not obliged to receive child. 1879, 179, § 4.

SECTION 32. Said society shall not be obliged to receive any child under the provisions of the three preceding sections.

P. S. 48, § 25.

Hampden County Children's Aid Association. 1880, 231.

SECTION 33. In Hampden county, the provisions of the four preceding sections shall in all respects be applicable to the Hampden County Children's Aid Association.

P. S. 48, § 26.

Powers of board of charity.

SECTION 34. The five preceding sections shall not affect the powers of the state board of charity.

1880, 231. P. S. 48, § 27.

Information as to child and right to visit it, how secured. 1896, 288.

SECTION 35. If the parent or guardian of a minor child, who is indentured or placed in charge of any person or association or of a public or private institution by any state, city or town board or by any public or private corporation or body of persons authorized by law to indenture or so place minor children, or if one of the next of kin of an orphan so indentured or placed in charge and without guardian, is not, upon request, informed by such board, corporation or body of persons where the child is, the probate court for the county in which such child has its legal residence may, upon petition of such parent, guardian or next of kin and upon notice, if in its opinion the welfare of the child and the public interests will not be injured thereby, require such board, corporation or body of per-

sons to give the information and permit the parent, guardian or next of kin to visit the child at such time or times and under such conditions as the court shall order; and the court may revise its order or make new orders or decrees upon the petition as the welfare of the child and the public interests may require.

Care of Children under Sixteen Years of Age.

Support by state board. 1900, 397, § 1.

Section 36. [*Amended by 1911, 490, § 2.*] The state board of charity may, in its discretion, upon the written application of the parent or guardian, or, if there is no parent or guardian, of a friend, of a child under the age of sixteen years who is dependent upon public charity, or upon written application of the overseers of the poor of the city or town in which such child is found, provide for his maintenance.

[1911, 490, § 2.]

State board of charity may receive dependent children in certain cases.

Section 2. Section thirty-six of said chapter eighty-three is hereby amended by striking out the word "sixteen", in the third and fourth lines, and inserting in place thereof the word: — twenty-one, — so as to read as follows: — *Section 36.* The state board of charity may, in its discretion, upon the written application of the parent or guardian, or, if there is no parent or guardian, of a friend, of a child under the age of twenty-one years who is dependent upon public charity, or upon written application of the overseers of the poor of the city or town in which such child is found, provide for his maintenance. [*Approved May 27, 1911.*

For schooling and tuition of State minor wards, see R. L. 44, p. 12, supra.

Commitment of neglected children. 1866, 283, § 3. P. S. 48, § 20. 1882, 181, §§ 3, 4. 1886, 330. 1888, 248, § 1. 1893, 252. 1894, 498, § 28. 1898, 496, § 35; 580, § 2. 1900, 397, §§ 2, 3, 5. 141 Mass. 203.

Section 37. [*Repealed by 1903, 334, infra.*] A police, district or municipal court or a trial justice, upon complaint that any child under sixteen years of age within its or his jurisdiction, by reason of orphanage or of the neglect, crime or drunkenness or other vice of his parents, is growing up without education or salutary control and in circumstances exposing him to lead an idle and dissolute life, or is dependent upon public charity, shall issue a summons requiring the person to whom it is directed to appear at the time and place stated in the summons and show cause why such child should not be committed as hereinafter provided. Such summons shall be directed to the father of the child, if living and resident within the commonwealth, and if not, to the mother of the child if living and

resident within the commonwealth; if there is no parent living and resident, to the legal guardian of the child, and if there is none, to the person with whom, according to the statement of the child, he resides; if there is no such person, to some suitable person to act in behalf of such child; and a notice of the hearing shall be sent to the state board of charity. The court or magistrate may commit the child, whether he has or has not a settlement, to the custody of said board until he is twenty-one years of age or for a less time, and said board shall provide for the care and maintenance of the child without expense to the city or town of his settlement and may discharge the child from its custody whenever the object of his commitment has been accomplished. If such child has a settlement and if the overseers of the poor of the place of his settlement so request, the commitment shall be to their custody. The state board shall transfer its custody of any such child, who has a settlement, to the overseers of the poor of the place of settlement upon their request, and such transfer shall thereafter relieve the commonwealth from further liability for his maintenance. The overseers of the poor shall have the same powers as to children committed or transferred to their custody as are given to the state board as to children in its custody and, in the city of Boston, the trustees for children shall have the powers and duties conferred by the provisions of this and the preceding section upon the overseers of the poor.[1] 152 Mass. 432. 161 Mass. 70.

Section 38. [*Repealed by 1903, 334, infra.*] The child, parent, guardian or person appearing in behalf of such child, and the state board of charity may appeal from the order of the court or justice to the superior court sitting for civil business for the county within which the hearing is held, and if said parent, guardian or other person appearing on behalf of such child fails to furnish such bail as may be required by the court or justice before whom such hearing is held, such child shall be committed to the custody of the state board of charity pending the determination of the appeal. Appeal. 1900, 397, § 3.

[1] "This is not a penal statute, and the commitment to the public officers is not in the nature of punishment. It does not punish the infant by confinement, nor deprive him of his liberty; it only recognizes and regulates, as in providing for guardianship and apprenticeship, the parental custody which is an incident of infancy." Allen, J., in *Farnham* v. *Pierce* (1886), 141 Mass. 203, at 204. "The inability or failure of the parent to furnish the relief is intended to show the need of the child, not to be the basis of a decree against the parent." *Idem.*, p. 205. Consequently its commitment is evidence of the condition of the child, as in need of restraint on account of the neglect of the parent, at the time of the commitment, and is not binding upon the father as an adjudication upon his rights. He has the right upon a petition for a writ of *habeas corpus* to show that the cause stated for the commitment does not now exist; that he is competent and fit to have the care of his child, and that the welfare of the child will permit of its removal from custody. *Idem.* And this right in the parent is not impaired by statutory amendments providing notice to the parents. *Kelley, petitioner* (1890), 152 Mass. 432. But see dissenting opinion of Knowlton, J., concurred in by Devens and Holmes, JJ., *idem.* *Sed quaere*, whether under the law as it stands since the amendments in 1903, 334, and 1909, 181, incorporating provisions as to notice and appeal, such a petition for a writ of *habeas corpus* would lie. See *Wares, petitioner* (1894), 161 Mass. 70, in which such a petition was denied where it appeared that the custodial authorities had given full and regular hearing to the petitioner, and in which no error of law or neglect or unfaithfulness in the discharge of their duty by the said authorities was alleged. For distinction between neglected and pauper children, and the interpretation of § 37 as distinguished from § 36, see *Commonwealth* v. *Dee*, Sup. Jud. Ct., Worcester, Oct. term, 1915; case No. 3.

[1903, 334.]

An Act to provide for the care of neglected children.

Certain children may be taken in custody, etc.

Section 1. [*Amended by 1909, 181, infra.*] A police, district or municipal court or a trial justice, upon a complaint made by any person that any child under sixteen years of age within its or his jurisdiction, by reason of orphanage or of the neglect, crime or drunkenness, or other vice of its parents, is growing up without education or without salutary control, or in circumstances exposing him to lead an idle and dissolute life, or is dependent upon public charity, may issue a precept to bring such child before said court or trial justice, and shall issue a notice to the state board of charity and shall also issue a summons requiring the board or person to whom such notice or summons is directed to appear before said court or trial justice at the time and place stated in the notice and summons, to show cause why such child should not be committed to the state board of charity, or be otherwise provided for. Such summons shall be directed to the father of the child, if living and resident within the commonwealth; if not, to the mother of the child, if living and resident within the commonwealth; if there be no parent living and resident within the commonwealth, to the legal guardian of such child; if there be no legal guardian, to the person with whom such child last resided; if there be no father, mother, guardian or person as aforesaid, to some suitable person to act in behalf of such child.

[1909, 181.]

An Act relative to the care of neglected children.

1903, 334, § 1, etc., amended.

Section 1. Section one of chapter three hundred and thirty-four of the acts of the year nineteen hundred and three is hereby amended by inserting after the word "crime", in the fifth line, the words: — cruelty, insanity, — by inserting after the word "control", in the sixth and seventh lines, the words: — or without proper physical care, — and by striking out all after and including the word "such", in the seventeenth line, and inserting in place thereof the words: — Such summons shall be issued to at least one of the parents of the child, if either of them is known to reside within the commonwealth, and, if after reasonable search no such parent can be found within the commonwealth, then to its lawful guardian, if there is one known to be so resident, and if not, then to the person with whom such child last resided, if known; if there be no father, mother, guardian, or person as aforesaid, to some suitable person to act in behalf of such child, — so as to read as follows: — *Section 1.* A police, district or municipal court or a trial justice, upon a complaint made

Certain children may be taken in custody, etc.

by any person that any child under sixteen years of age within its or his jurisdiction, by reason of orphanage or of the neglect, crime, cruelty, insanity or drunkenness, or other vice of its parents, is growing up without education or without salutary control, or without proper physical care, or in circumstances exposing him to lead an idle and dissolute life, or is dependent upon public charity, may issue a precept to bring such child before said court or trial justice, and shall issue a notice to the state board of charity and shall also issue a summons requiring the board or person to whom such notice or summons is directed to appear before said court or trial justice at the time and place stated in the notice and summons, to show cause why such child should not be committed to the state board of charity, or be otherwise provided for. Such summons shall be issued to at least one of the parents of the child, if either of them is known to reside within the commonwealth, and, if after reasonable search no such parent can be found within the commonwealth, then to its lawful guardian, if there is one known to be so resident, and if not, then to the person with whom such child last resided, if known; if there be no father, mother, guardian, or person as aforesaid, to some suitable person to act in behalf of such child.

Section 2. This act shall take effect upon its passage. [*Approved March 18, 1909.*

Complaint may be continued, etc.

Section 2. When such child is taken in custody upon said precept and is brought before said court or trial justice, it or he may then hear said complaint, or said complaint may be continued to a time fixed by said court or trial justice for hearing, and said court or trial justice may allow the child to be placed in the care of some suitable person or charitable corporation upon his or its furnishing surety for the further appearance of said child; or the child may be committed to the custody of said state

board until surety is furnished, pending a hearing on said complaint.

As to who may act as counsel, see 1912, 165, p. 126, infra. For continuances, see 1913, 457, p. 225, infra.

Commitment, etc., of neglected children. 195 Mass. 187.

Section 3. If at the hearing by said court or trial justice upon said complaint the child is before said court or trial justice, and it appears that said summons has been duly and legally served upon some person mentioned as aforesaid, and that said notice has been issued to said state board, the court or trial justice, if it or he finds the allegations in said complaint to be proven, may further continue said complaint and may allow the child to be placed in the care of some suitable person or charitable corporation upon his or its furnishing surety for the further appearance of the child before said court or trial justice whenever said court or trial justice may require; and said court or trial justice may make such further orders with reference to the care and custody of the child as may conduce to the best interests of the child; or said court or trial justice may commit the child to the custody of the state board of charity until he attains the age of twenty-one years, or for a less time; and said board may discharge said child from its custody whenever the object of its commitment has been accomplished.[1]

For provisions relating to schooling and tuition of State minor wards, see R. L. 44, p. 12, supra.

Certain children may be committed to the custody of the overseers of the poor.

Section 4. If such child has a settlement, and if the overseers of the poor of the place of his settlement so request, the commitment may be to their custody. The state board of charity may, in its discretion, transfer its

[1] Parents have no inherent property right in their minor children of which they can in no way be deprived without their consent, and though they are the natural guardians of their children, and entitled to their custody, with the right to appropriate their earnings, and may recover damages for any interference with their rights by a wrong-doer, this right is not an absolute and uncontrollable one, and will not be enforced to the detriment or destruction of the happiness and well-being of the child. *Purinton* v. *Jamrock* (1907), 195 Mass. 187.

custody of any such child who has a settlement, to the overseers of the poor of the place of settlement, upon their request, and such transfer shall thereafter relieve the commonwealth from further liability for his maintenance.

Powers and duties of overseers of the poor, etc.

SECTION 5. The overseers of the poor shall have the same powers as to children committed or transferred to their custody as are given to the state board as to children in its custody; and in the city of Boston the trustees for children shall have the powers and duties conferred by the provisions of this and the preceding section upon the overseers of the poor.

Appeal may be made from order of court, etc.

SECTION 6. The child, parent, guardian or person appearing in behalf of such child, or the state board of charity, may appeal from the order of the court or justice to the superior court sitting for civil business for the county within which the hearing is held, and if said parent, guardian or other person appearing on behalf of the child fails to furnish such bail as may be required by the court or justice before whom such hearing is held, the child may be committed to the custody of the state board of charity, or placed in the care of some suitable person or charitable corporation, pending the determination of the appeal. Such appeal shall be entered in said superior court by the court or justice from which or from whom the appeal is taken, without the payment of an entry fee, and the superior court may, in its discretion, advance such complaint for speedy trial.

Repeal. 195 Mass. 199.

SECTION 7. Sections thirty-seven and thirty-eight of chapter eighty-three of the Revised Laws are hereby repealed.

SECTION 8. This act shall take effect upon its passage. [*Approved May 8, 1903.*

For provisions as to witness fees in cases arising under this chapter, see 1907, 158, p. 197, infra.

For additional provision regarding the right of appeal in cases arising under this chapter, see 1911, 175, infra.

[1911, 175.]

AN ACT TO PROVIDE FOR NOTICE OF THE RIGHT OF APPEAL IN THE CASE OF CHILDREN ADJUDGED NEGLECTED.

Notice of right of appeal, etc.

Whenever any child is adjudged a neglected child under the provisions of chapter three hundred and thirty-four of the acts of the year nineteen hundred and three and of acts in amendment thereof, the court or justice making the adjudication shall notify the child, parent, guardian or person appearing in behalf of such child of the right of appeal to the superior court which is provided for by section six of said chapter three hundred and thirty-four. [*Approved March 22, 1911.*

Children to be placed in private families. 1900, 397, § 4.

SECTION 39. Such children in the care or custody of the state board shall be placed in private families; but in case of illness or change of place or while awaiting trial they may be placed in any suitable institution.

ADDITIONAL LEGISLATION.

[1904, 356.]

AN ACT RELATIVE TO THE CARE OF INDIGENT AND NEGLECTED CHILDREN.

Search to be made by cities and towns for indigent and neglected children.

SECTION 1. It shall be the duty of truant officers in cities and of the overseers of the poor in towns, as often as may be deemed necessary by them, to make diligent search throughout their respective cities and towns for children under the age of sixteen who are suffering want through poverty, privation or from the neglect of their parents or guardians, or of any other persons having them in charge, or from any cause whatsoever.

Temporary care to be provided.

SECTION 2. Where such children are found without parents or guardians or in charge of such parents or guardians as in the judgment of the officers or overseers aforesaid are unfit to care for children by reason of mental incapacity,

dissolute habits or poverty, it shall be the duty of the officers and overseers aforesaid to provide for the temporary care of such children, until proceedings may be had against them if necessary, according to the provisions of chapter three hundred and thirty-four of the acts of the year nineteen hundred and three.

Payment of expenses.

SECTION 3. Reasonable expenses incurred by the officers and overseers aforesaid in furnishing aid as provided by this act shall be paid by the city or town wherein the persons have legal settlements, and, if they are without settlement, by the commonwealth, after approval by the state board of charity; and notice in writing shall be sent to the place of settlement or, if such persons are unsettled, to the state board of charity as is otherwise provided by law.

SECTION 4. This act shall take effect upon its passage. [*Approved May 20, 1904.*

For duties of attendance officers with regard to children falling within the provisions of this act, see 1913, 779, § 12.

[1905, 464.]

AN ACT RELATIVE TO THE PROTECTION OF MINORS IN THE RELIGIOUS BELIEF OF THEIR PARENTS, WHEN SUCH MINORS ARE WARDS OF THE COMMONWEALTH.

Protection of minor wards of the commonwealth in the religious belief of their parents.

SECTION 1. No parents, or surviving parent, of any minor child in the care or under the supervision of the state board of charity, or of any state commission, or of any state board of trustees, shall be denied the right of any child of theirs to the free exercise of the religious belief of his parents and the liberty of worshipping God according to the religion of his parents, or surviving parent, or of the religion which his parents professed, if they are both deceased; and no minor child in the care, or under the supervision of any state board of charity, or of any state commission, or state board of trustees, shall be denied the free exercise of the religion of his parents, or of his surviving parent, or of his parents if they are both

deceased, nor the liberty of worshipping God according to the religion of his parents, whether living or deceased.

Repeal.

Section 2. All acts and parts of acts inconsistent herewith are hereby repealed. [*Approved May 25, 1905.*

For separate itemization of estimates and expenditures for religious services in institutions, see 1912, 562.

[1906, 501.]

An Act relative to the support of wives and minor children.

Penalty for neglect to provide for support of wife or minor child, etc.

Section 1. [*Amended by 1909, 180, infra.*] Whoever unreasonably neglects to provide for the support of his wife or minor child or minor children, or who actually abandons his wife or minor child or minor children without adequate support, or leaves them in danger of becoming a burden upon the public, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months. Proof of neglect to provide for the support of wife or minor child shall be prima facie proof that such neglect is unreasonable. [1]

[1909, 180.]

An Act relative to the support of wives and minor children.

1906, 501, § 1, etc., amended.

Section one of chapter five hundred and one of the acts of the year nineteen hundred and six is hereby amended by striking out the words "Whoever unreasonably neglects to provide for the support of his wife or minor child or minor children, or who actually abandons his wife or minor child or minor children without adequate support, or leaves them in danger of becoming a burden upon the public," in the first to the fifth line, inclusive, and inserting in place thereof the words: — Any person, who, being under a legal duty to provide for the support of his wife or of his or her minor child or children, unreasonably neglects to provide suitable support, or abandons or leaves them or

[1] "While one of the objects of the statute is doubtless to prevent wives and children from becoming a charge upon the public for their support, this is not its chief object. The higher and more important purpose of the legislature in passing the law was to provide directly for neglected wives and children, and to punish the infliction of this kind of wrong upon them, and, by the fear of punishment, to deter husbands and fathers from leaving their families to endure privation." Knowlton, C.J., in *Commonwealth* v. *Acker* (1908), 197 Mass. 191, 193. Consequently a father may be found guilty of neglect under the provisions of 1906, 501, even though his child the neglect of which is charged is beyond the jurisdiction and has never been within the Commonwealth. *Idem.*

any or either of them in danger of becoming a burden upon the public, or any parent, whether father or mother, whose minor child, by reason of the neglect, cruelty, drunkenness, habits of crime, or other vice of such parent, is growing up without education or without salutary control, or without proper physical care, or in circumstances exposing him to lead an idle and dissolute life, — so as to read as follows: — *Section 1.* Any person who, being under a legal duty to provide for the support of his wife or of his or her minor child or children, unreasonably neglects to provide suitable support, or abandons or leaves them or any or either of them in danger of becoming a burden upon the public, or any parent, whether father or mother, whose minor child, by reason of the neglect, cruelty, drunkenness, habits of crime, or other vice of such parent, is growing up without education or without salutary control, or without proper physical care, or in circumstances exposing him to lead an idle and dissolute life, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months. Proof of neglect to provide for the support of wife or minor child shall be prima facie proof that such neglect is unreasonable. [*Approved March 18, 1909.*

Penalty for neglect to provide for support of wife or minor child, etc.

Section 2. All fines imposed under the provisions of the foregoing section may, in the discretion of the court, be ordered to be paid in whole or in part to the wife or to the city, town, corporation, society or person actually supporting the wife or minor child at the time the sentence is imposed, or to the treasurer of the commonwealth for the use of the state board of charity, if the minor child has been committed to said board.

Disposition of fines, etc.

Section 3. If a person convicted under the provisions of this chapter is placed on probation or if his sentence is suspended and he is placed on probation under the provisions of chapter three hundred and thirty-eight of the acts

Persons on probation to pay such sum as the court may direct, etc.

of the year nineteen hundred and five, the court may require, as a condition of such probation, in addition to such other conditions as the court may deem proper, that such person pay from time to time to the wife, or to the probation officer, or to such person as the court may designate, such reasonable sum as the court may direct for the support of the wife or minor child, and the court may also require as a further condition of such probation that such person give a bond, with or without sureties, in a sum not exceeding two hundred dollars, to the justice of said court and his successors that he will make such payments. Suit may be brought upon said bond by any person authorized by the court, and the proceeds of the suit shall be applied to the support of the wife or minor child, as the court shall direct. The court may place the case on file on similar conditions and may take it from the files at any time. The court may at any time in its discretion modify and alter the conditions on which a person is placed on probation or on which his case is placed on file.

Sums paid may be transferred to city or town, etc., supporting wife or minor child, etc.

Section 4. The court may order any sums paid under the provisions of the foregoing sections to be paid over in whole or in part to the city, town, corporation or society supporting the wife or minor child at the time the sentence is imposed, or to the treasurer of the commonwealth, for the use of the state board of charity, when the complaint is for neglect to provide for the support of a minor child or of minor children who have been committed to the custody of said state board.

Complaints.

Section 5. Complaints under the provisions of this chapter may be made by the wife or by any other person to the municipal, district or police court or trial justice of the district in which the husband and wife or either of them are living or in which they last lived together.

To be construed as a continuation of existing statutes, etc.

Section 6. The provisions of this act, so far as they are the same as those of existing statutes, shall be construed as a continuation thereof and not as new enactments. [*Approved June 20, 1906.*

[1908, 286.]

AN ACT RELATIVE TO THE RELEASE OF CERTAIN MINORS AFTER ARREST.

Release after arrest may be made in case of certain minors, etc.

SECTION 1. Any child between the ages of seven and seventeen who has been arrested with or without a warrant may, unless the justice or magistrate of the court issuing the warrant has otherwise directed in the warrant, be released by the officer to whom the warrant is delivered, upon the written promise of the parent, guardian or any other reputable person, to be responsible for the appearance of said child in court at the time and place when the child is to appear, and at any other time to which the hearing in the case may be continued or adjourned by the court.

SECTION 2. This act shall take effect upon its passage. [*Approved March 25, 1908.*

[1911, 456.]

AN ACT TO MAKE UNIFORM THE LAW RELATING TO DESERTION AND NON-SUPPORT OF WIFE BY HUSBAND OR OF CHILDREN BY EITHER FATHER OR MOTHER.

Making uniform the law relating to desertion and non-support.

SECTION 1. Any husband who without just cause deserts his wife or minor child or children, whether by going into another town or city in this commonwealth or into another state, and leaves them or any or either of them without making reasonable provision for their support, and any husband who unreasonably neglects or refuses to provide for the support and maintenance of his wife or minor child or children, or abandons or leaves them or any or either of them in danger of becoming a burden upon the public, and any parent, whether father or mother, who deserts or wilfully neglects or refuses to provide for the support and maintenance of his or her child or children under the age of sixteen, or whose minor child by reason of the neglect, cruelty, drunkenness, habits of crime or other vice of such parent is growing up without

education, or without salutary control, or without proper physical care or in circumstances exposing such child to lead an idle and dissolute life, shall be guilty of a crime, and on conviction thereof shall be punished by a fine not exceeding two hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Payment of fines, etc.

Section 2. All fines imposed under the provisions of the foregoing section may, in the discretion of the court, be ordered to be paid in whole or in part to the probation officer under the provisions of section one of chapter two hundred and twenty of the Revised Laws, as amended by section one of chapter three hundred and thirty-eight of the acts of the year nineteen hundred and five, to be paid by such probation officer to the wife or to the city, town, corporation, society or person actually supporting the wife or minor child or children at the time when the sentence was imposed, or to the treasurer of the commonwealth for the use of the state board of charity if the minor child or children have been committed to said board.

Complaint, etc.

Section 3. Proceedings under this act may be begun upon complaint made under oath or affirmation by the wife, or by the child or children, or by any other person against any person guilty of any of the above named offences, in the municipal, district or police court, or before the trial justice, of the district in which the husband and wife, or either of them, are living or in which they last lived together.

Temporary order, etc.

Section 4. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for the support of the deserted wife or children, or both, *pendente lite*, and may punish any violation of such order as for contempt.

Defendant, in certain cases, to pay a periodical sum, etc.

Section 5. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, if the defendant is placed on probation or

if his sentence is suspended and he is placed on probation under the provisions of section one of chapter two hundred and twenty of the Revised Laws, as amended by section one of chapter three hundred and thirty-eight of the acts of the year nineteen hundred and five, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have power to make an order, which shall be subject to change by the court from time to time as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding two years, to the probation officer, who shall pay over the same to the wife or to the guardian or custodian of the said minor child or children, or to the city, town, corporation or society supporting the wife or minor child or children at the time when the sentence was imposed, or to the treasurer of the commonwealth for the use of the state board of charity when the complaint is for neglect to provide for the support of the minor child or minor children who have been committed to the custody of said board; and the court shall also have power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation may order and approve. The condition of the recognizance shall be that if the defendant shall make his or her personal appearance in court, whenever ordered to do so, and shall comply with the terms of the order of support, or of any subsequent modification thereof, then the recognizance shall be void, but otherwise it shall be of full force and effect. Suit may be brought upon said recognizance by any person authorized by the court, and the proceeds of the suit shall be applied to the support of the wife or of the minor child or minor children as the court shall direct.

Condition of recognizance, etc.

Section 6. [*Amended by 1914, 520, infra.*] If the court be satisfied by information and due proof under oath that at any time during said period of probation the defendant has violated the terms of the order, it may

Proceedings in cases of violation of terms

of order of court, etc.

Forfeiture of recognizance.

forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of the forfeiture of the recognizance and enforcement thereof by execution the sum recovered may, in the discretion of the court, be paid in whole or in part to the probation officer, who shall pay over the same to the wife, or to the guardian or custodian of said minor child or children, or to the city, town, corporation or society supporting the wife or minor child at the time when the sentence was imposed, or to the treasurer of the commonwealth for the use of the state board of charity when the complaint is for neglect to provide for the support of a minor child or of minor children who have been committed to the custody of said board.

[1914, 520.]

An Act to provide that bail forfeited in non-support cases may be applied to the support of the wife and minor children.

1911, 456, § 6, amended.

Section 1. Section six of chapter four hundred and fifty-six of the acts of the year nineteen hundred and eleven is hereby amended by inserting after the period in the seventh line the words: — In case the defendant is admitted to bail pending the trial of the cause and the bail shall be forfeited, the money or sum recovered, and, — so as to read as follows: — *Section 6.* If the court be satisfied by information and due proof under oath that at any time during said period of probation the defendant has violated the terms of the order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case the defendant is admitted to bail pending the trial of the cause and the bail shall be forfeited, the money or sum recovered, and in case of the forfeiture of the recognizance and enforcement thereof by execution the sum recovered may, in the discretion of the court, be paid in whole or in part to the probation officer, who shall pay over the same to the wife, or to the guardian or custodian of said minor child or children, or to the city, town, corporation or society supporting the wife or minor child at the time when the sentence was imposed, or to the treasurer of the commonwealth for the use of the state board

Proceedings in cases of violation of terms of order of court, etc.

Forfeiture of recognizance.

of charity when the complaint is for neglect to provide for the support of a minor child or of minor children who have been committed to the custody of said board.

Section 2. This act shall take effect upon its passage. [*Approved May 13, 1914.*

Proof of marriage.

Section 7. No other or greater evidence shall be required to prove the marriage of the husband and wife, or that the defendant is the father or mother of the child or children, than is or shall be required to prove the same facts in a civil action. In no prosecution under this act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent witnesses to testify against each other to any and all relevant matters, including the fact of their marriage and the parentage of the child or children: *provided,* that neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of the wife, child or children, and of the neglect or refusal to make reasonable provision for their support and maintenance, shall be prima facie evidence that such desertion, neglect or refusal is wilful and without just cause.

Proviso.

A certain sum to be paid weekly toward the support of certain persons in destitute or needy circumstances, etc.

Section 8. It shall be the duty of the superintendent, master or keeper, as the case may be, of any reformatory or penal institution in which any person is confined by virtue of a sentence imposed under the provisions of this act, providing that the court imposing such sentence finds the wife, child or children, as the case may be, of such person to be in destitute or needy circumstances, and so orders, to pay over to the probation officer, at the end of each week a sum equal to fifty cents for each day's hard labor performed by the person so confined. In making the payment the superintendent, master or keeper, as the case may be, in charge of the reformatory or penal institution, shall state the name of the person for whose labor the payment is made, and the probation officer shall pay

over such sum promptly to the wife, or to the guardian or custodian of the minor child or children of the person so confined, or to the city, town, corporation or society supporting the wife or minor child or children at the time when the sentence was imposed, or to the treasurer of the commonwealth for the use of the state board of charity when the complaint was for neglect to provide for the support of the minor child or of minor children who have been committed to the custody of said board.

Interpretation of law.

Section 9. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Repeal.

Section 10. All acts and parts of acts inconsistent herewith are hereby repealed.

Uniform desertion act.

Section 11. This act may be cited as the Uniform Desertion Act. [*Approved May 18, 1911.*

[1912, 165.]

An Act relative to court proceedings in the case of a neglected child.

Who may act as attorney for a neglected child.

Whenever a child is before any court as a neglected child and has no attorney to appear in its behalf, any person may, with the court's consent, act in behalf of such child. [*Approved February 24, 1912.*

[1914, 272.]

An Act relative to the conveyance of children to courts and asylums.

Neglected or destitute children not to be conveyed in patrol wagons.

Section 1. A child who is not convicted or accused of any offence but is a neglected or destitute child and is otherwise so circumstanced as to require its conveyance from its home or from any other place to any court or asylum, shall not be conveyed in a patrol wagon but shall be conveyed in such other suitable vehicle as shall be provided or designated by the children's institutions department in the city of Boston and by the overseers of the poor in all other cities and in all towns.

Section 2. Whoever violates or causes to be violated any provision of this act shall be fined not less than twenty-five dollars nor more than fifty dollars for each offence, or shall be imprisoned for not more than three months. [*Approved April 1, 1914.*

Penalty.

OF THE STATE BOARD OF CHARITY.

R. L. CHAPTER 84.

OF THE STATE BOARD OF CHARITY.

Section 1. There shall be a state board of charity consisting of nine persons, two of whom shall annually in June be appointed by the governor, with the advice and consent of the council, for a term of five years from the seventh day of said month; but in the year nineteen hundred and four and in every fifth year thereafter one member only shall be appointed.

State board of charity, organization, etc.
1863, 240, § 1.
1879, 291, § 2.
P. S. 79, § 1.
1886, 101, § 4.
1898, 433, § 24.
131 Mass. 381.
136 Mass. 578.

Section 2. [*Amended by 1908, 598, infra.*] The board shall have general supervision of the state hospital, the state farm, the Massachusetts state sanatorium, the Lyman school for boys and the state industrial school for girls; and, if directed by the governor, it may assume and exercise the powers of the boards of trustees of said institutions in any matter relative to the management thereof, except the trusts which are vested in the trustees of the Lyman and industrial schools; and may delegate any of its powers and duties to and execute any of its functions by, agents appointed for the purpose or by committees appointed from and by said board.

Supervision of state institutions.
1866, 198, § 3.
1879, 291, §§ 3, 4.
P. S. 79, § 2.
1884, 323, § 1.
1887, 264.
1895, 428, § 2.
1898, 433, § 24.
1901, 291.

[1908, 598.]

AN ACT RELATIVE TO THE STATE BOARD OF CHARITY.

Section two of chapter eighty-four of the Revised Laws is hereby amended by striking out all after the word "purpose", in the ninth line, and inserting in place thereof the following: — There shall be two divisions in the board, one to be known as the division of state adult poor and one to be known as the division of state minor wards. The board shall appoint a superintendent of each division, who shall be the executive officer of that division, and shall hold said position of superintendent and executive officer

R. L. 84, § 2, amended.

during the pleasure of the board, and shall perform such duties as it may require. The executive officers shall receive from the commonwealth such compensation as the board may determine, and the necessary expenses incurred by them in the performance of their official duty, — so as to read as follows: — *Section 2.* The board shall have general supervision of the state hospital, the state farm, the Massachusetts state sanatorium, the Lyman school for boys and the state industrial school for girls; and, if directed by the governor, it may assume and exercise the powers of the boards of trustees of said institutions in any matter relative to the management thereof, except the trusts which are vested in the trustees of the Lyman and industrial schools; and may delegate any of its powers and duties to, and execute any of its functions by, agents appointed for the purpose. There shall be two divisions in the board, one to be known as the division of state adult poor and one to be known as the division of state minor wards. The board shall appoint a superintendent of each division, who shall be the executive officer of that division, and shall hold said position of superintendent and executive officer during the pleasure of the board, and shall perform such duties as it may require. The executive officers shall receive from the commonwealth such compensation as the board may determine, and the necessary expenses incurred by them in the performance of their official duty. [*Approved June 8, 1908.*

Supervision of state institutions, etc.

For act providing supervision of the Hospital School, see 1904, 446, p. 228, infra; of the Industrial School for Boys, 1908, 639, p. 209; of the State sanatoria, R. L. 88, p. 234, and 1907, 474, p. 238; of the Norfolk State Hospital, 1912, 530, p. 167, infra. For duties relating to Penikese Hospital, see 1905, 474, p. 251, infra. For supervision of Wayfarers' lodges and public lodging houses, see 1914, 606, p. 141, infra.

Officers, etc.; meetings; annual report. 1863, 240, §§ 2–4, 7. 1870, 359, § 1. 1879, 291, § 7. P. S. 79, § 3.

Section 3. [*Supplemented by 1907, 271, p. 137, infra. Also superseded in part by 1905, 211, § 1, infra.*] The board, with the consent of the governor, shall appoint such officers as may be necessary, and fix their compensation,

within the limits of the annual appropriation; but no person employed by the board shall be a member thereof. It shall hold meetings once in each month, and oftener if necessary. It shall make its own by-laws and shall annually make a report to the governor and council on or before the thirty-first day of December, of its doings up to the thirtieth day of September, inclusive, embodying therein a properly classified and tabulated statement of its receipts and expenses and of the receipts and expenses of each of the institutions above named for the said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates. The report shall also present a concise review of the work of the several institutions for the preceding year, with such suggestions and recommendations as to them and to the charitable and reformatory interests of the commonwealth, as may be considered expedient. The members of the board and of the boards of trustees of the state institutions above named, shall receive no compensation for their services; but their travelling and other necessary expenses shall be allowed and paid.

For act establishing State Board of Publication, see 1902, 438.

For further duties of the board with reference to supervision and new improvements at State institutions, see 1907, 271, p. 137, and 1907, 520, p. 138, infra.

For provisions relating to bookkeeping and accounts, see 1908, 195, 197.

[1905, 211, § 1.]

AN ACT TO ESTABLISH A NEW FISCAL YEAR FOR THE COMMONWEALTH.

SECTION 1. The fiscal year of all offices, departments, boards, commissions, hospitals, asylums, charitable, penal and reformatory institutions of the commonwealth shall begin with the first day of December and end with the following thirtieth day of November, and all books and accounts therein shall be kept by fiscal years as herein

The fiscal year for the commonwealth to begin December 1, etc.

established, and the annual reports of all officers, trustees, boards and commissions, except the report of the insurance commissioner and except those reports otherwise provided for in this act, shall be made to the governor and council, or to the general court, as now required by law, except that they shall be made on or before the third Wednesday in January, anything in any general or special statute now existing to the contrary notwithstanding. Such reports shall be deposited with the secretary of the commonwealth, who shall transmit them to the governor and council or to the general court. The financial statements now required by law to be included therein shall be made for the fiscal year as herein established. The annual meetings of trustees of state institutions and of state boards, at which financial statements are required by law to be presented, shall be held in the month of December in each year. [*Approved May 23, 1905.*

Duties of board.
1863, 240, § 5.
1867, 209, § 4.
P. S. 79, § 4.
1898, 433, § 24.

Section 4. [*Amended by 1909, 208, infra.*] The board shall ascertain whether any paupers in state institutions under its supervision or that of the state board of insanity have settlements in this commonwealth, and shall cause the laws relative to the support by cities and towns of sane state paupers to be enforced, and shall prosecute all cases of bastardy if the mother has no settlement in this commonwealth. It shall also prepare, from the returns made by overseers of the poor under the provisions of section forty of chapter eighty-one, tables of paupers supported by towns, and print in its annual report the most important information thus obtained.

[1909, 208.]

An Act relative to the duties of the state board of charity.

R. L. 84, § 4, amended.

Section 1. Section four of chapter eighty-four of the Revised Laws is hereby amended by striking out all after the words "in this commonwealth", in the sixth line, and inserting in place thereof the words: — It shall also prepare a form for the returns to be made by overseers of the poor under sections forty and forty-one of chapter eighty-one, as amended by chapter one hundred and fifteen of the acts of the year nineteen hundred and five, and mail one of said forms to the clerk of the overseers of the

poor of each city or town on or before the first day of April of each year, and from said returns made by the overseers of the poor it shall prepare tables of paupers supported by towns, and shall print in its annual report the most important information thus obtained, — so as to read as follows: — *Section 4.* The board shall ascertain whether any paupers in state institutions under its supervision or that of the state board of insanity have settlements in this commonwealth, and shall cause the laws relative to the support by cities and towns of sane state paupers to be enforced, and shall prosecute all cases of bastardy if the mother has no settlement in this commonwealth. It shall also prepare a form for the returns to be made by overseers of the poor under sections forty and forty-one of chapter eighty-one, as amended by chapter one hundred and fifteen of the acts of the year nineteen hundred and five, and mail one of said forms to the clerk of the overseers of the poor of each city or town on or before the first day of April of each year, and from said returns made by the overseers of the poor it shall prepare tables of paupers supported by towns, and shall print in its annual report the most important information thus obtained.

Duties of state board of charity relative to certain paupers.

Section 2. This act shall take effect upon its passage. [*Approved March 24, 1909.*

Section 5. The board shall at least once in every year visit all places where state paupers are supported, and ascertain from actual examination and inquiry whether the laws relative to such paupers are properly observed, particularly in relation to such as are able to labor; and shall give such directions as will insure correctness in the returns required in relation to paupers; and may use all necessary means to collect information relative to their support. It shall visit the state hospital and the Lyman school for boys, for the purpose of inspection, at least once in each month and, by some woman or women appointed

Visitations.
G. S. 71, § 3.
1870, 359, §§ 1, 2.
1877, 195, § 2.
1879, 291, §§ 1, 3, 5.
P. S. 79, § 5.
1900, 215.

for the purpose, may at all hours of the day or night have access to the portions of said hospital occupied by the women or children there maintained at public expense, and may require from the officers of said institutions information concerning the condition and treatment of the inmates. It shall visit all almshouses which are maintained in cities or towns and shall include in its annual report a statement of their condition and management with its suggestions and recommendations relative thereto.

For duties with reference to indigent and neglected children and juvenile offenders, see R. L. 83, p. 98, R. L. 86, p. 169, and 1906, 413, p. 189, infra.

For right of inmates of institutions to communicate with the board, see 1906, 341, p. 137, infra.

Certificates used to be provided by board. G. S. 71, § 5. 1864, 307, § 6. P. S. 79, § 6.

Section 6. The board shall prescribe to the superintendent of the state hospital, the forms for statistical returns to be made by him in his annual report, as to the sex, age and birthplace of the inmates, and the places from which they were sent. It shall also prescribe the form of, and provide cities and towns with blanks for, the certificate required by the provisions of section seven of chapter eighty-five. Such certificate shall contain such inquiries as to the age, parentage, birthplace and former residence of, and other facts relative to, the pauper, as the board considers necessary, to which true answers shall be given before the pauper is received into the hospital.

Annual inventory. 1859, 177, § 2. G. S. 5, § 11. P. S. 79, § 7.

Section 7. [*Superseded by 1911, 154, infra.*] The trustees of each institution named in section two shall annually on the thirtieth day of September cause to be made and sent to the board an accurate inventory of the stock and supplies on hand and the value and amount thereof, under the following heads: —

Live stock on the farm, produce of the farm on hand, carriages and agricultural implements, machinery and mechanical fixtures, beds and bedding in the inmates' department, other furniture in the inmates' department, personal property of the commonwealth in the superintendent's department, ready-made clothing, dry goods, provisions and groceries, drugs and medicines, fuel, library.

[1911, 154.]

AN ACT RELATIVE TO RETURNS OF INVENTORIES OF STATE INSTITUTIONS UNDER THE GENERAL SUPERVISION OF THE STATE BOARD OF CHARITY.

SECTION 1. Chapter eighty-four of the Revised Laws is hereby amended by striking out section seven and inserting in place thereof the following: — *Section 7.* The trustees of every institution under the general supervision of the board shall annually cause an accurate inventory of the stock and supplies on hand, and the value and amount thereof at the institution, to be made on the thirtieth day of November, and to be sent to the board on or before the third Wednesday in December.

R. L. 84, § 7, amended.

Inventory, etc.

SECTION 2. This act shall take effect upon its passage. [*Approved March 17, 1911.*

SECTION 8. The board may transfer pauper inmates from one state charitable institution to another, or may send them to any state or place where they belong, if the public interest or the necessities of the inmates so require.

Transfer of paupers. 1859, 255. G. S. 71, § 7. 1863, 240, § 4. 1879, 291, § 3. P. S. 79, § 9.

1887, 367. 102 Mass. 215. 116 Mass. 570.

SECTION 9. On application of the trustees of the Lyman and industrial schools, the board may transfer an inmate of the Lyman school for boys or of the state industrial school whom said trustees consider incorrigible or an unfit subject for said institutions, with the mittimus, to the state farm, there to be held on such mittimus until the term of sentence expires, but the board may return such person, with the mittimus, to the school from which such transfer was made, when in its judgment the object of such transfer has been accomplished.

— of inmates of Lyman and industrial schools. 1866, 198, § 6. 1876, 14. P. S. 79, § 10.

SECTION 10. The board may from time to time select for support at the state farm any state paupers whose labor, in domestic or other service at such institution, may

Selection of paupers for support at state farm. 1872, 45, § 3. P. S. 79, § 12.

contribute toward the cost of their support, or whose maintenance at the same may for special reasons be considered expedient; and in an emergency may transfer any inmates of the state hospital to said institution, there to be supported while the emergency continues; but the board shall not so transfer an inmate of the state hospital to the state farm as a punishment for crime.

Removal to places of settlement, when. 1860, 83, § 1. P. S. 79, § 14.

Section 11. [*Amended by 1903, 231.*] If a state pauper, who has received a certificate described in section seven of chapter eighty-five, desires to be sent to any state or place where he has a legal settlement, or to friends willing to support him, the board may remove said pauper instead of committing him, if in its judgment it is for the interest of the commonwealth and of the pauper; but no person shall be so removed, unless, in the judgment of said overseers and of the board, he will otherwise become a charge to the commonwealth for at least one year; and the board shall, in its annual report, return the names of all persons so removed, the places from which and to which they are removed and the cost of each removal.

[1903, 231.]

An Act relative to the removal of state paupers to the places of their settlement.

R. L. 84, § 11, amended.

Section 1. Section eleven of chapter eighty-four of the Revised Laws is hereby amended by striking out all after the word "pauper", in the sixth line, so as to read as follows: — *Section 11.* If a state pauper, who has received a certificate described in section seven of chapter eighty-five, desires to be sent to any state or place where he has a legal settlement, or to friends willing to support him, the board may remove said pauper instead of committing him, if in its judgment it is for the interest of the commonwealth and of the pauper.

Certain state paupers may be removed to places of settlement, etc.

Section 2. This act shall take effect upon its passage. [*Approved April 14, 1903.*

Removal to places of settlement, proceedings thereon. 1860, 83, § 2. P. S. 79, § 15.

Section 12. The names of persons so removed and the usual details of their history shall be entered upon the register of the hospital, and shall be recorded by the several superintendents, as discharged by the board, for the purpose of removal from the commonwealth.

Private societies to report to board. 1867, 243, §§ 1, 2. 1875, 118. P. S. 41, § 15; 79, §§ 16, 17.

Section 13. Every private charitable society or institution, if aided by a grant of money from the commonwealth, shall annually prepare and send to the board a written or printed report of all its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of September, stating the amount appropriated by the commonwealth, the amount expended under said appropriation, the whole number and the average number of beneficiaries, the number and salaries of officers and persons employed, and such other information as the board may require. Said report, if in writing, shall be sent in by the fifteenth day of October, and, if in print, by the first day of November.

See 1905, 211, for change in fiscal year.

Returns by charitable corporations. 1899, 259. 1901, 179.

Section 14. [*Amended by 1903, 402; 1913, 82, infra.*] A charitable corporation whose personal property is exempt from taxation under the provisions of clause three of section five of chapter twelve shall annually, on or before the first day of November, make to the state board of charity a written or printed report for its last financial year, showing the property, receipts and expenditures, the whole number and the average number of its beneficiaries and such other information as the board may require.

[1903, 402.]

An Act relative to reports of charitable corporations.

R. L. 84, § 14, amended.

Section 1. [*Amended by 1913, 82, infra.*] Section fourteen of chapter eighty-four of the Revised Laws is hereby amended by striking out the word "the", in the fifth line, and inserting in place thereof the word: — its, — and by inserting before the word "receipts", in the same line, the word: — its, — so as to read as follows: — *Section 14.* A charitable corporation whose personal property is exempt from taxation under the provisions of clause three of section five of chapter twelve shall annually, on or before the first day of November, make to the state board of charity a written or printed report for its last financial year, showing its property, its receipts and expenditures, the whole number and the average number of its beneficiaries and such other information as the board may require.

Certain charitable corporations to report annually to state board of charity.

Section 2. This act shall take effect upon its passage. [*Approved May 29, 1903.*

[1913, 82.]

An Act relative to reports of charitable corporations.

R. L. 84, § 14, etc., amended.

Section 1. Section fourteen of chapter eighty-four of the Revised Laws, as amended by chapter four hundred and two of the acts of the year nineteen hundred and

three, is hereby further amended by adding at the end thereof the following: — If any corporation subject to the provisions of this act shall fail for two successive years to file the said report, the supreme judicial court, upon application by the state board of charity, after notice and a hearing, may decree a dissolution of the corporation, — so as to read as follows: — *Section 14.* A charitable corporation whose personal property is exempt from taxation under the provisions of clause three of section five of chapter twelve shall annually, on or before the first day of November, make to the state board of charity a written or printed report for its last financial year, showing its property, its receipts and expenditures, the whole number and the average number of its beneficiaries and such other information as the board may require. If any corporation subject to the provisions of this act shall fail for two successive years to file the said report, the supreme judicial court, upon application by the state board of charity, after notice and a hearing, may decree a dissolution of the corporation.

Certain charitable corporations to make annual returns to the state board of charity.

Time of taking effect.

Section 2. This act shall take effect upon the first day of November in the year nineteen hundred and thirteen. [*Approved February 14, 1913.*

See also R. L. 12, § 5, cl. 3, p. 4, supra.

For provision relating to inspection of charitable corporations, see 1909, 379, p. 141, infra.

For provision relating to investigation of petitions for charters for charitable organizations, see 1910, 181, p. 255, infra.

For provision relative to notice to the board of the filing of instruments creating charitable funds, see 1915, 14 (Gen.), p. 142, infra.

Information to board, of deposits.
1852, 132, §§ 1, 3.
G. S. 57, §§ 151, 153.
1876, 203, § 25.
P. S. 116, § 43.
1894, 317, § 48.
1898, 425, § 6; 433, § 24.

Section 15. A treasurer of a savings bank, institution for savings, benefit association, insurance company or safe deposit company who, upon request in writing, signed by an officer of the state board of charity, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request who is a charge upon the commonwealth

as a pauper, or who wilfully renders false information in reply to such request shall for each offence forfeit fifty dollars, to the use of the commonwealth.

For powers and duties of the board in the care and removal of persons afflicted with diseases dangerous to the public health, see 1909, 391, p. 53, supra.

For authority of the board to advise overseers of the poor in the preparation of plans for almshouse buildings, see 1905, 162, p. 11, supra.

For authority to transfer boys to the Industrial School for Boys, see 1909, 472, p. 213, infra.

For exemption of the board's agent from the prohibition against recommending candidates for the employ of public-service corporations, see 1909, 514, § 26.

ADDITIONAL LEGISLATION.

[1906, 341.]

AN ACT TO PROVIDE FOR CORRESPONDENCE BY LETTER BETWEEN THE STATE BOARD OF CHARITY AND INMATES OF INSTITUTIONS UNDER ITS SUPERVISION.

Inmates of certain institutions, rights, etc.

All inmates of any institution under the supervision of the state board of charity shall be allowed, subject to the regulations of the board, to write freely to the board, and letters so written shall be forwarded, unopened, by the superintendent or person in charge of the institution to said board for such disposition as it shall consider right, and the board may send any letters or other communications to any inmates of any such institution whenever it may consider it proper so to do. [*Approved April 30, 1906.*

[1907, 271.]

AN ACT RELATIVE TO THE DUTIES OF THE STATE BOARD OF CHARITY.

State board of charity to submit a tabulated statement of receipts and expenditures, etc.

SECTION 1. The several institutions under the supervision of the state board of charity shall submit to said board for its approval, annually on or before the fifth day of November, a tabulated statement of their estimates for the year ensuing. The annual report of said board shall contain a properly classified and tabulated statement of

the receipts and expenses of the board, and of each of the several state institutions under its supervision for the preceding year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, including estimates for the ordinary expenses, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; a concise review of the work of the several institutions under the supervision of the board for the year preceding, and such suggestions and recommendations as to said institutions and as to the general interests of all persons under its supervision as it considers expedient, together with information embodying the experience of this country and of other countries relative to the best and most successful methods of caring for such persons as come under the supervision of the board.

Plans, etc., for new buildings to be approved.

Section 2. The board shall inspect and approve all plans and specifications for new buildings which are to be used by state institutions coming under its supervision, and for the extension or alteration, involving an expenditure of more than two thousand dollars, of existing buildings which are to be or are already so used, before such new buildings are erected or such extensions or alterations are made.

Section 3. This act shall take effect upon its passage. [*Approved April 5, 1907.*

[1907, 520.]

An Act relative to the construction and improvement of buildings at state and other institutions.

Construction and improvement of buildings at state institutions, etc.

Section 1. Preliminary plans, specifications and at least one reliable estimate of the cost of any new construction, including plumbing, heating, lighting, ventilating and equipment, or alteration or repair of existing construction at an expense exceeding two thousand dollars, for which it is intended to petition the general court for an appropriation of money, shall be submitted, on or before November

first next preceding the legislative session in which it is intended to request the consideration thereof, to the state board which has supervision of the institution, public or private, for which such work is proposed. Said state board may require such modifications thereof and additions thereto and such additional information as it may deem necessary.

Plans and specifications, etc.

Section 2. After the approval of said preliminary plans and specifications by said state board, working plans, specifications and at least one reliable estimate of the cost of the proposed work shall be procured by the trustees of the institution, and shall be submitted on or before said November first to said state board for its approval. Said state board may employ expert assistance in its consideration thereof, and may recommend such modifications of and additions to said working plans and specifications as it may deem necessary, and if said working plans, specifications and estimate shall be submitted to the legislature without its approval, it shall recommend to the committees by whom such new construction, alteration or repairs shall be considered such modifications and additions as it may deem advisable, with its reasons therefor. All work to be done by persons regularly employed at the institution shall be excepted from the provisions of this section.

Copies of plans, etc., to be filed.

Section 3. Copies of said working plans and specifications relative to work for which an appropriation has been made shall be filed with said state board, and shall not be modified except with its approval in writing. The trustees shall solicit bids for the performance of such work by advertising in a reasonable number of newspapers, and shall award the contract to the lowest responsible and eligible bidder; but no contract shall be awarded for a sum exceeding the appropriation available therefor. Any petition subject to the provisions of this act and presented without compliance therewith shall be referred to the next general court, unless it shall be admitted for immediate considera-

Bids for work to be solicited, etc.

tion under the rules governing the admission of new business after the expiration of the time limit for its introduction.

Estimates of cost, etc.

Section 4. Any petition for an appropriation of money by the commonwealth for such new construction, alteration or repair at an institution which is not under the supervision of a state board shall be accompanied by working plans, specifications, and at least three reliable estimates of its cost for submission to the committees of the legislature by whom it shall be considered; otherwise it shall be referred to the next general court, according to the provisions of section three.

Expenditures.

Section 5. [*Amended by 1914, 662, infra.*] To meet the expenses incurred under the provisions of section two on account of state institutions, and on account of the Massachusetts School for the Feeble-Minded and the Hospital Cottages for Children, a sum not exceeding two thousand dollars may annually be expended. Bills of such expenses shall not be paid until they have been approved by said state board.

Section 6. This act shall take effect upon its passage. [*Approved June 15, 1907.*

[1914, 662.]

An Act to provide for the payment of certain expenses incurred under the provisions of the law relative to the construction and improvement of buildings at state or other institutions.

1907, 520, § 5, amended.

Section 1. Chapter five hundred and twenty of the acts of the year nineteen hundred and seven is hereby amended by striking out section five and inserting in place thereof the following new section: — *Section 5.* The expenses incurred in the preparation of working plans and specifications necessary to the making of estimates calling for appropriations as provided by this act shall be paid from the appropriation made to carry out the recommendation or petition. Should the general court fail to make an appropriation to carry out the purpose for which working plans and specifications were prepared, the expense of the same shall be paid from an appropriation made for the purpose. The state board of charity and the state

Expenses for certain plans, etc.

board of insanity may incur such expenses for expert assistance under the provisions of section two as may appear reasonable to the auditor, not exceeding in the aggregate the sum of two thousand dollars in any one year.

Section 2. This act shall take effect upon its passage. [*Approved June 13, 1914.*

[1909, 379.]

An Act to provide for the inspection by the state board of charity of certain charitable institutions.

State board of charity to inspect certain charitable institutions, etc.

Section 1. The state board of charity, upon the request or with the consent of a charitable corporation which, under the provisions of section fourteen of chapter eighty-four of the Revised Laws, as amended by chapter four hundred and two of the acts of the year nineteen hundred and three, is required to make an annual report to said board, shall, at least once in every year, visit and inspect the institution or investigate the work of such corporation.

Section 2. This act shall take effect upon its passage. [*Approved May 13, 1909.*

[1914, 606.]

An Act to establish state supervision of wayfarers' lodges and public lodging houses.

Wayfarers' lodge and lodging house defined.

Section 1. Every building, lodge, enclosure or establishment in which wayfarers, tramps, wanderers, needy persons or persons out of work are habitually fed or provided with a place to sleep, whether under public or private management, shall be deemed a wayfarers' lodge within the meaning of this act. Every building not licensed as an inn, having a capacity for housing ten or more persons, in which persons are lodged for a price of twenty-five cents or less for each person for a day of

twenty-four hours, or for any part thereof, or free, or in return for any work, service or value rendered, shall be deemed a public lodging house within the meaning of this act.

State board of charity to visit and inspect, etc.

Section 2. The state board of charity shall visit and inspect, at least once in each year, every wayfarers' lodge and every public lodging house found within the commonwealth, and for this purpose shall be authorized to enter upon any premises where such lodge or lodging house is maintained, at any or all times of the day or night.

Authority of the board limited.

Section 3. The said board shall have authority to consult with and advise individuals or officers conducting any such lodge or lodging house regarding the conduct of the same and the best methods of serving the public welfare thereby, and may, in its discretion, transmit a statement of its findings as a result of its inspection or consultation to any person, officer or board properly interested therein.

Annual report.

Section 4. The said board may require of all persons, officers or boards conducting a wayfarers' lodge or a public lodging house such reports of facts and circumstances relative thereto, its inmates and its administration as the board may deem advisable.

Section 5. The said board shall include in its annual report to the governor and council a detailed report of its inspection and supervision hereunder, and such other matters relating to wayfarers' lodges and public lodging houses as it may deem proper.

Section 6. This act shall take effect upon its passage. [*Approved June 2, 1914.*

[1915, 14, Gen.]

An Act relative to notice of filing of instruments creating charitable funds.

State board of charity to be notified of filing of instruments creating charitable funds.

Section 1. Whenever there shall be filed for record in a registry of deeds or of probate any testamentary document or deed of trust, or other instrument, creating or increasing an estate or fund for benevolent, charitable,

humane or philanthropic purposes the register shall forthwith send to the state board of charity a statement setting forth the book and page in the registry where the instrument is recorded, with the name, if any, of the said estate or fund, and further stating by whom the said estate or fund has been created or increased, and by whom it is to be administered.

Section 2. This act shall take effect upon its passage. [*Approved February 17, 1915.*

STATE INFIRMARY AND STATE FARM.

R. L. CHAPTER 85.

OF THE STATE HOSPITAL AND THE STATE FARM.

For change of name of State Hospital, see 1911, 104, p. 160, infra.

Sections 1– 6. — Trustees of the State Hospital and the State Farm.
Sections 7–27. — The State Hospital and State Paupers.
Sections 28–36. — The State Farm.
Sections 37–40. — Sentences to State Farm.

Trustees of the State Hospital and the State Farm.

Trustees of state hospital and state farm. 1852, 275, § 6. 1854, 437, § 3. 1859, 177, § 3. G. S. 71, § 32. 1879, 291, § 9. P. S. 86, § 13; 88, § 1. 1884, 297, § 2. 1887, 264. 1900, 333.

Section 1. There shall be a board of trustees of the state hospital and state farm, consisting of five men and two women, three of whom shall annually in June be appointed by the governor, with the advice and consent of the council, for a term of three years, except that in the year nineteen hundred and three and every third year thereafter only one such trustee shall be so appointed.

Meetings, reports. 1852, 275, §§ 5, 6, 10. 1854, 189, § 1. 1857, 40, § 1. 1859, 177, § 2. 1864, 288, § 11. G. S. 71, §§ 32, 34, 54. 1866, 198, § 2. 1872, 45, § 4. 1876, 199, §§ 1-3. 1879, 291, §§ 7, 9, 10.

Section 2. [*Superseded in part by 1905, 211, p. 129, supra, establishing a new fiscal year for the Commonwealth. See also 1902, 438, establishing a Board of Publication; 1907, 271, 520, p. 137, supra, as to estimates, etc.; and 1908, 195, 597, as to accounts.*] The trustees shall hold meetings monthly either at the state hospital or state farm and shall annually, on or before the first day of November, report to the governor and council the con-

P. S. 86, §§ 13, 14, 16, 17, 19, 20, 40; 88, §§ 2, 3. 1883, 278. 1884, 297, §§ 2, 3. 1891, 299.

dition of such institutions and the expenses of the state hospital in detail for the year ending on the preceding thirtieth day of September, a list of the salaried officers and their salaries, and a copy of the inventory required by the provisions of section seven of chapter eighty-four. One trustee shall visit each institution at least once in each week. The trustees shall appoint a superintendent of the state hospital, who, with the approval of the governor and council, may be the resident physician, and a superintendent of the state farm, each of whom shall hold office at the pleasure of the board and whose compensation shall be fixed by it with the approval of the governor and council. All other officers and employees shall be appointed by the superintendents, subject to the approval of the trustees, who shall fix the compensation in each case, which shall not exceed the appropriation of the general court for that purpose. They shall audit and approve the accounts and bills of the superintendent of the state hospital and of the state farm before payment. No person employed by the board shall be a member thereof.

Rules, etc. 1852, 275, § 6. 1866, 198, § 2. G. S. 71, § 32. 1879, 291, §§ 7, 9. P. S. 86, § 14. 1884, 297, § 2. P. S. 88, § 1.

Section 3. The trustees shall, with the approval of the governor and council, establish rules and regulations for the proper management and government of the state hospital and state farm, and shall see that they are enforced.

Other powers of trustees. 1852, 275, § 7. G. S. 71, § 33. 1879, 291, § 9. P. S. 86, § 15.

Section 4. The trustees shall have the same power as overseers of the poor to bind out minor inmates of the state hospital as apprentices, and to cause the inmates thereof to be returned to the place or country from which they came.

Transfer of inmates. 1884, 297, § 4. 1886, 101, § 4. 1898, 433, § 24.

Section 5. The trustees, with the approval of the state board of charity, may transfer inmates to and from the state hospital and the pauper department of the state farm, and, to secure a better classification of the inmates of the two institutions, may transfer to the state hospital discharged prisoners remaining in the state farm.

Section 6. The superintendents and resident physicians shall have the right to reside with their families at the state hospital and the state farm respectively. Said superintendents shall receive no other compensation than that provided in section two and no perquisites for their services except as aforesaid; and they shall give bond to the treasurer and receiver general for the faithful performance of their duties in such sums as shall be designated by the rules and regulations of the trustees, and with sufficient surety or sureties to the acceptance of said trustees and subject to the approval of the governor.

Superintendents; bond, etc. 1852, 275, § 5. 1854, 189, § 2. G. S. 71, § 34. 1876, 179, § 1. 1879, 291, § 10. P. S. 86, §§ 16, 19; 88, § 2.

For provisions as to advance money, see 1908, 178; 1909, 218. For provisions as to reimbursement of premiums paid on official bond, see 1908, 469.

The State Hospital and State Paupers.

Section 7. The superintendent shall receive all paupers who are sent with a proper certificate from the state board of charity or from one of the overseers of the poor of a city or town, or from one of the trustees of pauper institutions or from one of the trustees for children, in the city of Boston, or from some one duly authorized by vote of the board of overseers of the poor of any city or town or of the board of trustees of pauper institutions or from one of the trustees for children, of the city of Boston, and provide for them under the rules and regulations herein provided.

Superintendent to receive paupers. 1852, 275, § 5. G. S. 71, § 35. P. S. 86, § 21. 1891, 84. 1897, 395, §§ 3, 4.

For act changing name of Pauper Institutions Department of the city of Boston, see 1908, 393.

Section 8. The resident physician of the state hospital shall be competent to take charge of insane inmates, and shall have entire charge of and be responsible for the medical treatment of the inmates of the hospital; shall regulate and control the dietary of the hospital, and shall supervise the preparation of the food for this department; and, if not himself the superintendent, shall from time to time make requisitions upon the superintendent for such food, medicines and necessaries, other than the ordinary

Duties of physician of hospital. 1876, 179, §§ 1, 4. P. S. 86, §§ 16, 18.

supplies, as in his judgment the requirements of a well-ordered hospital demand.

Paupers sent to hospital by cities, etc. 1823, 21, § 1. R. S. 46, § 30. 1852, 275, §§ 3, 8. 1855, 151, § 1; 445, § 1. 1856, 171, § 3. G. S. 71, § 36. 1872, 45, § 2. 1879, 291, § 3. P. S. 86, 22. 105 Mass. 337.

Section 9. Cities and towns may, at their own expense, send to the state hospital, to be maintained at the public charge, all paupers who may fall into distress therein, and who have no settlement within the commonwealth. The city or town shall be reimbursed by the commonwealth, upon bills approved by the state board of charity, for the expense of transportation of each state pauper thus sent, for the excess over thirty miles by the usual route, at a rate not exceeding three cents a mile.

Removal of sick paupers. 1887, 440, §§ 1, 2.

Section 10. [*Amended by 1903, 233, infra.*] No city or town officer or agent having the care and oversight of a sick pauper shall remove or attempt to remove him or cause him to be removed to the state hospital unless there is reasonable cause to believe that such removal will not injure or endanger his health, nor, unless otherwise directed by the state board of charity, until he has first obtained a certificate of a competent physician that, at the request of such officer or agent, he has examined such pauper who, in his opinion, can be so removed without injury or danger to his health.

[1903, 233.]

An Act relative to the removal of sick paupers to the state hospital.

R. L. 85, § 10, amended.

Section ten of chapter eighty-five of the Revised Laws is hereby amended by striking out all after the word "health", in the fifth line, and inserting in place thereof the following: — *provided, however,* that in case of doubt as to the safety of such removal such officer or agent shall obtain a certificate of a competent physician that at the request of such officer or agent he has examined such pauper, and that in his opinion such pauper can so be removed without injury or danger to his health; and *provided, also,* that such removal shall be made whenever ordered by the state board of charity, — so as to read as follows: — *Section 10.* No city or town officer or agent having the care and oversight of a sick pauper shall remove or attempt to remove him or cause him to be removed to the state hospital unless there is reasonable cause to believe that such removal will not injure or

Removal of sick paupers.

endanger his health: *provided, however,* that in case of doubt as to the safety of such removal such officer or agent shall obtain a certificate of a competent physician that at the request of such officer or agent he has examined such pauper, and that in his opinion such pauper can so be removed without injury or danger to his health; and *provided, also,* that such removal shall be made whenever ordered by the state board of charity. [*Approved April 14, 1903.* Provisos.

Section 11. A city or town officer or agent who violates the provisions of the preceding section, or a physician who gives a false certificate thereunder, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than three nor more than twelve months, or by both such fine and imprisonment. Penalties. 1887, 440, § 3.

Section 12. The state board of charity, upon the application of the overseers of the poor of any town, shall make provision in the state hospital or elsewhere for the support of Indians who may be unable to support themselves, and who have not acquired a settlement in any town in the commonwealth; and upon the application of an Indian who received aid from the commonwealth prior to the twenty-third day of July in the year eighteen hundred and sixty-nine, the state board shall furnish to him in the state hospital or elsewhere such aid as it may consider expedient. Poor Indians, support of. 1862, 184, § 2. 1869, 463, § 4. P. S. 86, § 23.

Section 13. No city or town shall send to the state hospital any insane person who would be dangerous if at large. 1854, 437, § 1. G. S. 71, § 37. P. S. 86, § 24. Towns not to send dangerous insane person.

For further provision as to transfer and commitment of insane persons to the State Infirmary, see 1904, 278, p. 157, infra.

Section 14. No city or town officer shall send to the state hospital any person who is infected with smallpox or other disease dangerous to the public health, or, except as Smallpox patients. 1855, 445, § 2. 1865, 162, §§ 1, 3.

1879, 291, § 3. P. S. 86, §§ 25, 27. 1885, 211.

provided in section ten, any other sick person whose health would be endangered by removal; but all such persons who are liable to be maintained by the commonwealth shall be supported during their sickness by the city or town in which they are taken sick, and notice of such sickness shall be given in writing to the state board of charity, which may examine the case and, if found expedient, order the removal of the patient; but such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the overseers of the poor or by a person appointed by them by special vote, who shall certify, after personal examination, that in their or his opinion such removal at the time of his application for aid would endanger his health. A city or town officer who knowingly violates the provisions of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

See, as to removals, 1904, 395, p. 52, supra. For reimbursement from the Commonwealth to cities and towns in dangerous disease cases, see 1909, 380, p. 48, supra. For acts relative to care and removal by the Board of persons infected with diseases dangerous to the public health, see 1909, 391, p. 53, supra.

Expenses. 1855, 151, § 2; 445, § 2. 1865, 162, § 2. 1869, 12. 1879, 291, § 3. P. S. 86, § 26. 1885, 211. 1891, 153. 1898, 391. 144 Mass. 64.

Section 15. [*Amended by 1908, 555; 1913, 797, infra.*] The reasonable expense which is incurred by a city or town under the provisions of the preceding section within five days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to the state hospital shall be reimbursed by the commonwealth. The bills for such support shall not be allowed unless they are indorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the city or town treasury, nor unless they are approved by the state board of charity or by a person designated by it; and not more than five dollars a week shall be allowed for the support of a person in a city or town hospital.

For further provision as to what may be included in the reimbursement, see 1909, 292, p. 86, supra.

[1908, 555.]

An Act to provide for reimbursing cities and towns for expenses incurred for certain sick poor.

R. L. 85, § 15, amended.

Section 1. [*Amended by 1913, 797, infra.*] Section fifteen of chapter eighty-five of the Revised Laws is hereby amended by inserting after the word "commonwealth", in the fifth and sixth lines, the words: — If the

state board of charity considers it expedient to order the removal to the state hospital of a person whose physical condition is such as to require attendance, then the reasonable expense incurred for such attendance, as directed by the state board of charity, shall also be reimbursed by the commonwealth, — so as to read as follows: — *Section 15.* The reasonable expense which is incurred by a city or town under the provisions of the preceding section within five days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to the state hospital shall be reimbursed by the commonwealth. If the state board of charity considers it expedient to order the removal to the state hospital of a person whose physical condition is such as to require attendance, then the reasonable expense incurred for such attendance, as directed by the state board of charity, shall also be reimbursed by the commonwealth. The bills for such support shall not be allowed unless they are indorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the city or town treasury, nor unless they are approved by the state board of charity or by a person designated by it; and not more than five dollars a week shall be allowed for the support of a person in a city or town hospital.

Expenses for care of certain sick poor.

Section 2. This act shall take effect upon its passage. [*Approved May 28, 1908.*

[1913, 797.]

AN ACT RELATIVE TO THE PAYMENT BY THE COMMONWEALTH TO CITIES AND TOWNS OF CERTAIN EXPENSES INCURRED FOR SICK PERSONS.

Section 1. Section fifteen of chapter eighty-five of the Revised Laws, as amended by chapter five hundred and fifty-five of the acts of the year nineteen hundred and eight, is hereby further amended by striking out the word "five", in the nineteenth line, and inserting in place thereof the word: — seven, — so as to read as follows: — *Section 15.* The reasonable expense which is incurred by a city or town under the provisions of the preceding section within five days next before notice has been given as therein required and also after the giving of such notice and until said sick person is able to be removed to the state hospital shall be reimbursed by the commonwealth. If the state board of charity considers it expedient to order the removal to the state hospital of a person whose physical condition is such as to require attendance, then the reasonable expense incurred for such attendance, as directed by the state board of charity, shall also be reim-

R. L. 85, § 15, etc., amended.

Reimbursement to cities and towns for care of certain sick poor, etc.

bursed by the commonwealth. The bills for such support shall not be allowed unless they are indorsed with the declaration that, after full investigation, no kindred able to pay the amount charged have been found, and that the amount has actually been paid from the city or town treasury, nor unless they are approved by the state board of charity or by a person designated by it; and not more than seven dollars a week shall be allowed for the support of a person in a city or town hospital.

Repeal.

Section 2. So much of any act as is inconsistent with this act is hereby repealed.

Time of taking effect.

Section 3. This act shall take effect on the first day of December, nineteen hundred and thirteen. [*Approved June 13, 1913.*

Husband and wife not to be separated. 1855, 172. G. S. 71, §§ 43, 44. 1861, 94. 1866, 234. P. S. 86, §§ 30, 31.

Section 16. [*Superseded by 1909, 98, infra.*] If a state pauper has a wife who is also a pauper having a legal settlement in this commonwealth, he shall be supported by the place where his wife has her settlement; but the commonwealth, upon written notice to the state board of charity within sixty days after aid is first given to him, shall reimburse such place the cost of such support based upon the expense of supporting him had he been committed to the state hospital. 1885, 211. 110 Mass. 98.

[1909, 98.]

An Act relative to the support of certain state paupers.

R. L. 85, § 16, amended.

Section 1. Chapter eighty-five of the Revised Laws is hereby amended by striking out section sixteen and inserting in place thereof the following: — *Section 16.*

Husband and wife not to be separated, etc.

If a state pauper has a wife who is also a pauper having a legal settlement in this commonwealth, he shall be supported by the place where his wife has her settlement; but the commonwealth, upon written notice to the state board of charity, shall reimburse such place for the cost of aid given to him for sixty days previous to notice and until otherwise ordered; the cost of such support being based upon the expense of supporting him had he been committed to the state hospital.

Section 2. This act shall take effect upon its passage. [*Approved February 25, 1909.*

SECTION 17. If the state hospital is full, cities and towns shall support state paupers at the expense of the commonwealth until notice is given by the superintendent that they can be received. The superintendent shall give such notice by mail to cities and towns according to the priority of their applications.

Cities, etc., to care for state paupers, when.
1853, 352, § 4.
1854, 437, § 2.
G. S. 71, § 46.
P. S. 86, § 32.

SECTION 18. The trustees of the state hospital shall have and exercise the same powers relative to pauper inmates and their property as towns and overseers of the poor have relative to paupers supported or relieved by them.

Powers of trustees.
1852, 275, § 7.
1855, 445, § 3.
G. S. 71, § 47.
1879, 291, § 9.
P. S. 86, § 33.

SECTION 19. The superintendent of the state hospital, with the consent of the trustees, may contract with any person for the employment of any inmate thereof in any kind of lawful labor for such wages or on such terms as the superintendent and trustees approve. If a contract is so made, such inmate shall be discharged from the hospital and, if he refuses to accept the employment offered, he shall forfeit all claim to support as a state pauper.

Contracts for employment of inmates, etc.
1858, 168.
G. S. 71, § 48.
1879, 291, § 9.
P. S. 86, § 34.

SECTION 20. A city or town in which an inmate of the state hospital is found to have a legal settlement shall be liable to the commonwealth for his support in like manner as one town is liable to another in like cases; and in such case, the state board of charity shall adopt such measures relative to notice, removal of a pauper and recovery of expenses as are prescribed for towns in like cases.[1]

Liability of towns, etc., for support of state paupers.
1855, 445, § 4.
1856, 108, § 5.
G. S. 71, § 49.
1875, 94, § 1.
P. S. 86, § 35.
1898, 433, § 24.
8 Gray, 455.

As to liability for the care of lepers, see 1909, 250, p. 253, supra.

SECTION 21. The kindred who are liable by law to towns for expenses in supporting such paupers shall in like manner be liable to the commonwealth for any expense incurred for such paupers; and the state board of charity may adopt the same measures and institute like pro-

Liability of kindred for support of such paupers.
1855, 445, § 5.
1856, 108, § 5.
G. S. 71, § 50.
1875, 94, § 1.
P. S. 86, § 36.
1898, 433, § 24.

[1] R. L. 85, § 20, providing that "a city or town in which an inmate of the state hospital is found to have a legal settlement shall be liable to the commonwealth in like manner as one town is liable to another in like cases," does not limit the liability of such city or town to a period of three months next preceding the date of notice, as is the case between towns under R. L. 81, § 17, and such liability is not affected by want of notice. 3 Op. A. G. 57 (1906). Neither is it avoided by the presence of kindred who are of sufficient ability to pay. 2 Op. A. G. 447 (1903).

ceedings for the recovery of such expenses from the kindred so liable as are prescribed for towns in like cases.

For provision as to fixing the price for support of insane inmates, see 1915, 208 (Gen.), infra.

Punishment for escape.
1852, 275, § 9.
G. S. 71, § 51.
P. S. 86, § 37.
1884, 258, § 1.
1898, 443.

Section 22. Whoever escapes from the state hospital and within one year thereafter is found in any city or town soliciting public charity shall be punished by imprisonment at the state farm.

Foreign paupers to be deported.
1766–7, 17, §§ 1–3.
1793, 59, § 13.
R. S. 46, § 17.
1850, 105, § 4.
G. S. 71, § 52.
P. S. 86, § 38.

Section 23. A justice of the superior court, or of a police, district or municipal court, or a trial justice, upon complaint of the overseers of the poor of any place or of the state board of charity, may, by warrant directed to a constable or other person therein designated, cause any pauper not born nor having a settlement in this commonwealth, who may conveniently be removed, to be conveyed, at the expense of the commonwealth, to any other state, or, if not a citizen of the United States, to any place beyond sea, where he belongs.

Insane state paupers to be deported.
1854, 437, § 4.
G. S. 71, § 53.
P. S. 86, § 39.
1884, 297, § 2.
1887, 264.
1898, 433, § 23.

Section 24. Upon complaint of the trustees of a state insane hospital, the trustees of the state hospital and state farm, the county commissioners or the overseers of the poor, a judge of probate shall have the same powers as are given by the provisions of the preceding section to cause the removal of insane state paupers under their charge to any other state, or to any place beyond sea, where they belong.

Accounts of hospital.
1854, 189, § 5.
G. S. 71, § 55.
1874, 360, § 2.
P. S. 86, § 41.

Section 25. All accounts for the maintenance of the state hospital and the state farm and the support of the inmates shall be approved by the trustees and filed with the auditor at the end of each month, and paid by the commonwealth.

No allowance to county, etc., for state paupers, except.
G. S. 71, § 56.
P. S. 86, § 42.

Section 26. Nothing shall be allowed from the treasury of the commonwealth to any county, city or town for expenses incurred on account of any state pauper, except as expressly provided by law.

Accounts of counties, etc., how audited.
1823, 21, § 2.

Section 27. All accounts against the commonwealth for allowance to counties, cities and towns on account of

state paupers shall be rendered to the state board of charity on or before the third Wednesday of January annually; and shall be so made as to include all claims for such charges up to the first day of said January, and, if approved by the board and certified by the auditor of accounts, shall be paid by the commonwealth. The state board may require such accounts to be accompanied with such statement of particulars and facts, and substantiated by such affidavits, as it orders.[1]

1830, 120. 1835, 127. R. S. 46, §§ 31–33. 1841, 116, § 3. 1849, 151, 207. 1851, 42. 1853, 366, § 2. G. S. 71, § 57. P. S. 86, § 43.

See 1905, 211 (p. 129, supra), establishing a new fiscal year for the Commonwealth; 1908, 597, changing title of Auditor of Accounts. For requirement that all accounts against the Commonwealth shall be itemized, see R. L., 6, § 29.

The State Farm.

Section 28. The superintendent shall have the management and control of the state farm and its operations.

Duties of superintendent. 1866, 198, §§ 2, 4. P. S. 88, § 2.

See, as to advances, 1908, 178.

Section 29. The state board of charity shall have general supervision of the state farm, and shall have the same power to discharge persons confined therein for any cause, or to apprentice or discharge any person committed under the provisions of the following section, as county commissioners have over inmates of houses of correction. It shall also have all the powers, not herein given to the superintendent and trustees, which overseers of the poor have relative to town workhouses.

—of state board of charity. 1866, 198, § 3. 1869, 258, § 2. 1877, 147. 1879, 291, § 3. P. S. 88, §§ 4, 6. 1886, 101, § 4. 1898, 433, § 24.

Section 30. Upon complaint of one of the overseers of the poor of a city or town, or in Boston of the pauper institutions trustees, police, district and municipal courts and trial justices may in their discretion commit persons who have been convicted of any of the offences enumer-

Vagabonds may be committed. 1866, 198, § 5. 1869, 258, § 1. 1870, 19; 288, § 1. P. S. 88, § 5. 1897, 395, § 4. 1898, 443, § 1.

[1] The rendering to the Commonwealth of a bill for aid furnished by a city or town to a State pauper, as required by Pub. Sts., c. 86, § 43 (R. L. 85, § 27), does not terminate the liability of the Commonwealth to make reimbursement therefor so as to require a new notice from such city or town if the aid is thereafter continued. 2 Op. A. G. 304 (1901).

ated in sections forty-six and fifty-five of chapter two hundred and twelve to the state farm.

See 1908, 393, changing name of Pauper Institutions Department of the city of Boston.

State board may deport or discharge such persons. 1869, 258, § 2. 1877, 147. P. S. 88, § 6. 1898, 443, § 1.

Section 31. The state board of charity may cause any person committed under the provisions of the preceding section, who has no legal settlement in this commonwealth, to be removed to the state or place where he belongs, or whence he came, in accordance with law. A person so removed who returns to this commonwealth before the expiration of his sentence may be re-arrested and returned to the state farm, there to serve out the remainder of his sentence.

Support to be paid by place of settlement, when. 1869, 258, § 3. P. S. 88, § 7.

Section 32. If any person so committed has a legal settlement in a city or town in this commonwealth, such city or town shall pay for his support such amount per week, as, having regard for his capacity for labor, may be fixed upon by the state board of charity; but upon written request of the overseers of the poor, the state board shall permit him to be transferred to the workhouse of his place of settlement, there to serve out the remainder of his sentence.

Penalty for escape. 1866, 198, § 5. 1870, 288, § 3. 1880, 257, § 8. P. S. 88, § 8.

Section 33. [*Amended by 1903, 188, infra.*] Whoever being sentenced to the state farm escapes or attempts to escape therefrom, or from the custody of the officer while being conveyed to said farm, may be pursued and reclaimed; and shall be punished by imprisonment at said farm, and may be there held in custody for not more than six months in addition to his previous sentence.

[1903, 188.]

An Act relative to sentences to the state farm.

R. L. 85, § 33, amended.

Section thirty-three of chapter eighty-five of the Revised Laws is hereby amended by striking out all after the word "by", in the fourth line, and inserting in place thereof the words: — an additional sentence to said farm, — so as to read as follows: — *Section 33.* Whoever being sentenced to the state farm escapes or attempts to escape therefrom, or from the custody of the officer while being

Penalty for escape from state farm, etc.

conveyed to said farm, may be pursued and reclaimed; and shall be punished by an additional sentence to said farm. [*Approved March 31, 1903.*

For prohibition of willful disturbance of the State Farm, etc., see 1909, 255, p. 160, infra.

Penalty for escape of inmates not sentenced. 1884, 258, § 1. 1898, 443, § 1.

Section 34. Whoever, not being a sentenced inmate of the state farm, absconds or escapes therefrom and within one year thereafter is found within any city or town soliciting public charity shall be punished by imprisonment at the state farm.

Complaints for escapes. 1884, 258, § 2. 1889, 245. 1895, 449, § 14. 1897, 395, § 4.

Section 35. Complaints for violations of the provisions of the preceding section and of section twenty-two may be made and prosecuted by any overseer of the poor or by the pauper institutions trustees of the city of Boston or by agents, not exceeding two, appointed by the state board of charity and designated for such purpose. The police court of Lowell may, at such times as it appoints, hold sessions at Tewksbury for the trial of such complaints against inmates of the state hospital.

See 1908, 393, changing name of Pauper Institutions Department of the city of Boston.

Jurisdiction. 1884, 258, § 3.

Section 36. The police court of Lowell shall have jurisdiction of said offences concurrent with any other court having jurisdiction thereof if committed in any part of the county of Middlesex without the district of said court, and the police court of Lawrence and the first district court of Essex shall have the same concurrent jurisdiction of said offences if committed in any part of the county of Essex without their respective districts.

Sentences to State Farm.

Sentences to state farm. 1898, 443, § 1.

Section 37. In imposing a sentence of imprisonment at the state farm, the court or trial justice shall not fix or limit the duration thereof. Whoever is sentenced to the state farm for drunkenness may be there held in custody for not more than one year, and whoever is so sentenced

for any other offence may be there held in custody for not more than two years, except as provided in section thirty-three.

Release on probation. 1862, 189. 1880, 221, § 3. P. S. 220, § 68. 1898, 443, § 2.

Section 38. If it appears to the state board of charity that a person serving a sentence at the state farm has reformed, it may, upon such conditions as it may determine, issue to him a permit to be at liberty for the residue of the period for which he might be held, and may revoke it at any time previous to its expiration.

Return of convict to farm. 1884, 152, § 2. 1898, 443, § 3.

Section 39. [*Amended by 1904, 216, infra.*] Upon the revocation of such permit, said board may issue an order for the return of the holder thereof to the state farm, which may be served by any officer authorized to serve criminal process. Upon his return to the state farm, the holder of such permit shall be detained for the residue of the term for which he might be held under the provisions of section thirty-seven and the time between his release on permit and said return shall not be considered as any part of said term.

[1904, 216.]

An Act relative to the release on permit of prisoners sentenced to the state farm.

R. L. 85, § 39, amended.

Section 1. Section thirty-nine of chapter eighty-five of the Revised Laws is hereby amended by adding at the end of said section the words: — or, if subsequent to such return it shall be deemed advisable by said board, the board may issue to such person further permits to be at liberty under the provisions of section thirty-eight, and subject to revocation as therein provided, — so as to read as follows: — *Section 39.* Upon the revocation of such permit, said board may issue an order for the return of the holder thereof to the state farm, which may be served by any officer authorized to serve criminal process. Upon his return to the state farm, the holder of such permit shall be detained for the residue of the term for which he might be held under the provisions of section thirty-seven and the time between his release on permit and said return shall not be considered as any part of said term; or, if subsequent to such return it shall be deemed advisable by said board, the board may issue to such person further

The state board of charity may order return of prisoners on permits or issue further permits to be at liberty.

permits to be at liberty under the provisions of section thirty-eight, and subject to revocation as therein provided.

SECTION 2. This act shall take effect upon its passage. [*Approved April 9, 1904.*

Special district police officers. 1901, 185.

SECTION 40. The governor, upon the written recommendation of the state board of charity, may from time to time appoint two or more agents of said board as special district police officers, who shall serve without pay, for terms of three years each, unless sooner removed and who shall have authority to return prisoners to the state farm, under the provisions of the preceding section.

See 1908, 470, p. 159, infra.

ADDITIONAL LEGISLATION.

[1904, 278.]

AN ACT RELATIVE TO THE TRANSFER AND COMMITMENT OF INSANE PERSONS TO THE STATE HOSPITAL.

Care, etc., of insane at state hospital.

SECTION 1. The wards of the state hospital heretofore used for the care of the insane, and such other wards as it may be found necessary to use for that purpose, shall be deemed to be wards of the state hospital, and the state board of insanity shall have the same authority with regard to the transfer of insane inmates of such wards which it has over inmates of other public institutions or receptacles for the insane, under the provisions of section eighty-seven of chapter eighty-seven of the Revised Laws.

Commitment of insane inmates.

SECTION 2. Any inmate of the state hospital who may be found to be insane may be committed to the state hospital in the same manner in which commitments of insane persons to insane hospitals are made.

SECTION 3. This act shall take effect upon its passage. [*Approved April 30, 1904.*

For provision as to religious beliefs of inmates, see 1904, 363, p. 182, infra.

[1905, 258.]

AN ACT TO PROHIBIT THE CONVEYING OF DRUGS AND OTHER ARTICLES TO PRISONERS.

Penalty for giving articles to prisoners without permission.

Whoever gives or delivers to a prisoner in the state farm, in the temporary industrial camp for prisoners, or in any jail or house of correction, any drug or article or thing whatever, or has in his possession within the precincts of any prison herein named with intent to give or to deliver to any prisoner any such drug or article or thing without the permission of the superintendent, master or keeper, as the case may be, shall be punished by a fine of not more than fifty dollars or by imprisonment in a jail or house of correction for not more than two months. [*Approved April 5, 1905.*

[1905, 355.]

AN ACT TO AUTHORIZE THE BOARD OF PRISON COMMISSIONERS TO ESTABLISH A HOSPITAL FOR PRISONERS HAVING TUBERCULAR DISEASE.

Hospital for prisoners having tubercular disease to be erected.

SECTION 1. With the approval of the governor and council the board of prison commissioners is hereby authorized to erect on the land now occupied by the temporary industrial camp for prisoners at Rutland, suitable buildings to be used as a hospital prison for the confinement and treatment of prisoners having tubercular disease.

Removal of prisoners, etc.

SECTION 2. When such buildings are ready for occupancy the prison commissioners may remove thereto any male prisoner in the state prison, the Massachusetts reformatory, the state farm, or in any jail or house of correction, who appears by the certificate of the prison physician to be suffering from consumption or any disease of a tubercular nature. They may at any time return to the original place of imprisonment any prisoner so removed. A prisoner shall be held in the place to which he is so removed or returned according to the terms of his original sentence.

Orders for removal, escape of prisoners, etc.

Section 3. Any order for the removal or return of a prisoner as provided herein may be executed by any officer authorized to serve criminal process; and a prisoner who makes an escape from such officer while being conveyed to or from said hospital prison, shall be deemed to have escaped from the prison to which he was originally committed.

Custody, etc., of prisoners removed to hospital prison.

Section 4. A prisoner removed to said hospital prison shall be held in the custody of the superintendent of said temporary industrial camp for prisoners, and shall be governed, employed and treated according to such rules and regulations as may be established by the board of prison commissioners with the approval of the governor and council. Prisoners held in said hospital prison shall be subject to all the laws that are now applicable to the temporary industrial camp for prisoners.

A certain sum may be expended.

Section 5. The prison commissioners are hereby authorized to expend, with the approval of the governor and council, a sum not exceeding twenty-five thousand dollars out of the State Prison Industries Fund to provide the buildings and furnishings for the said hospital prison.

Section 6. This act shall take effect upon its passage. [*Approved May 1, 1905.*

[1908, 470.]

An Act to authorize the appointment of officers of the state farm as special district police officers.

Officers of the state farm may be appointed special district police officers, etc.

The governor, upon the written recommendation of the trustees and superintendent of the state farm, may appoint any officer of the state farm a special district police officer for a term of three years unless sooner removed. Such officer shall have authority to perform any police duty about the premises of the state farm and to serve any criminal process in connection therewith. [*Approved May 1, 1908.*

[1909, 255.]

AN ACT RELATIVE TO THE STATE FARM AND THE PRISON CAMP AND HOSPITAL.

R. L. 210, § 22, amended.

Section twenty-two of chapter two hundred and ten of the Revised Laws is hereby amended by inserting after the word "women", in the second line, the words: — the state farm, the prison camp and hospital, — so as to read as follows: — *Section 22.* Whoever wilfully disturbs the state prison, the Massachusetts reformatory, the reformatory prison for women, the state farm, the prison camp and hospital, or a jail or house of correction, or in any manner seeks to attract the attention of, or without the permission of the officer in charge has communication with, an inmate thereof shall be punished by imprisonment for not more than three months or by a fine of not more than fifty dollars. [*Approved April 2, 1909.*

Penalty for disturbing penal institutions.

[1909, 504, § 98.]

AN ACT TO REVISE AND CODIFY THE LAWS RELATING TO INSANE PERSONS.

State Hospital, change of name.

SECTION 98. The name of the state hospital is hereby changed to State Infirmary, and the name of the state asylum for insane criminals is hereby changed to Bridgewater State Hospital. [*Approved June 16, 1909.*

For act authorizing correspondence by letter between the Board and inmates of institutions under its supervision, see 1906, 341, p. 137, supra.

[1911, 104.]

AN ACT RELATIVE TO THE STATE INFIRMARY AND THE STATE FARM.

R. L. 85, amended.

Chapter eighty-five of the Revised Laws is hereby amended by striking out the words "state hospital", wherever those words occur in the said chapter, and inserting in place thereof the words: — state infirmary. [*Approved March 4, 1911.*

[1915, 208, Gen.]

AN ACT RELATIVE TO THE SUPPORT OF STATE CHARGES IN THE STATE INFIRMARY AND THE BRIDGEWATER STATE HOSPITAL.

1909, 504, § 82, amended.

SECTION 1. Section eighty-two of chapter five hundred and four of the acts of the year nineteen hundred and nine is hereby amended by inserting after the word "charges", in the sixth line, the following: — including insane inmates of the state infirmary and insane inmates of the Bridgewater state hospital not under orders of a court, — so as to read as follows: — *Section 82.* The price for the support of inmates, other than state charges, of the institutions mentioned in section fourteen, and of the Massachusetts School for the Feeble-Minded, shall be determined by the trustees of the respective institutions. The price for the support of state charges, including insane inmates of the state infirmary and insane inmates of the Bridgewater state hospital not under orders of a court, shall be determined by the state board of insanity at a sum not exceeding five dollars per week for each person, and may be recovered by the treasurer and receiver general from such persons if of sufficient ability, or from any person or kindred bound by law to maintain them. The attorney-general shall upon request of the said board bring action therefor in the name of the treasurer and receiver general.

Charges for support of state charges, etc.

SECTION 2. This act shall take effect upon its passage. [*Approved April 28, 1915.*

NORFOLK STATE HOSPITAL.

[1909, 504, §§ 50–54, 56.]

AN ACT TO REVISE AND CODIFY THE LAWS RELATING TO INSANE PERSONS.

DIPSOMANIACS, INEBRIATES, ETC.

Commitment of dipsomaniacs, etc. R. L. 87, §§ 59, 60. 1905, 400.

SECTION 50. [*Amended by 1914, 558, and 1915, 73, Gen., infra.*] Any of the judges named in section twenty-nine may commit to the Foxborough state hospital, the McLean Hospital, or to a private licensed hospital or house, any male, or to any hospital or licensed receptacle, for the insane, public or private, except the Foxborough state hospital, any female, who is subject to dipsomania or inebriety either in public or private or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self control; but no such commitment shall be made until satisfactory evidence is presented to the judge by whom the proceedings for commitment are heard that such person is not of bad repute or of bad character apart from such habits of intemperance. The magistrate who receives the application for such commitment shall examine on oath the applicant and all other witnesses, shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventeen of the Revised Laws. Such person shall be entitled to a hearing, unless after receiving said summons he shall in writing waive a hearing; and in that case the magistrate may issue an order for his immediate commitment to said hospital without such hearing if he is of the opinion that such person is a proper subject for its treatment and custody. The commitment may be made forthwith, if the examining physician certifies the case to be one of emergency. A person committed as aforesaid may be detained for two years from the date of his commitment and no longer. [*Approved June 16, 1909.*

[1914, 558.]

AN ACT RELATIVE TO THE COMMITMENT OF DIPSOMANIACS, INEBRIATES OR PERSONS ADDICTED TO THE INTEMPERATE USE OF NARCOTICS AND STIMULANTS.

1909, 504, § 50, amended.

SECTION 1. [*Amended by 1915, 73, Gen., infra.*] Section fifty of chapter five hundred and four of the acts of the year nineteen hundred and nine is hereby amended by inserting after the word "twenty-nine", in the second line, the words: — and the justices of the municipal court of the city of Boston, — and by striking out in the second and sixth lines the word "Foxborough", and inserting in place thereof in each instance the word: — Norfolk, — so as to read as follows: — *Section 50.* Any of the judges named in section twenty-nine and the justices of the municipal court of the city of Boston may commit to the Norfolk state hospital, the McLean Hospital, or to a private licensed hospital or house, any male, or to any hospital or licensed receptacle for the insane, public or private, except the Norfolk state hospital, any female, who is subject to dipsomania or inebriety either

Commitment of dipsomaniacs, etc.

in public or private, or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self control; but no such commitment shall be made until satisfactory evidence is presented to the judge by whom the proceedings for commitment are heard that such person is not of bad repute or of bad character apart from such habits of intemperance. The magistrate who receives the application for such commitment shall examine on oath the applicant and all other witnesses, shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventeen of the Revised Laws. Such person shall be entitled to a hearing, unless after receiving said summons he shall in writing waive a hearing; and in that case the magistrate may issue an order for his immediate commitment to said hospital without such hearing if he is of the opinion that such person is a proper subject for its treatment and custody. The commitment may be made forthwith, if the examining physician certifies the case to be one of emergency. A person committed as aforesaid may be detained for two years from the date of his commitment and no longer.

SECTION 2. This act shall take effect upon its passage. [*Approved May 22, 1914.*

[1915, 73, GEN.]

AN ACT RELATIVE TO THE COMMITMENT OF DIPSOMANIACS AND PERSONS ADDICTED TO THE INTEMPERATE USE OF NARCOTICS AND STIMULANTS.

SECTION 1. Section fifty of chapter five hundred and four of the acts of the year nineteen hundred and nine, as amended by chapter five hundred and fifty-eight of the acts of the year nineteen hundred and fourteen, is hereby further amended by striking out the words "any male", in the fifth line, by striking out the words "except the Norfolk state hospital", in the seventh line, and by inserting after the word "any", in the same line, the words: — male or, — so as to read as follows: — *Section 50.* Any of the judges named in section twenty-nine and the justices of the municipal court of the city of Boston may commit to the Norfolk state hospital, the McLean Hospital, or to a private licensed hospital or house, or to any hospital or licensed receptacle for the insane, public or private, any male or female, who is subject to dipsomania or inebriety either in public or private, or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self control; but no such

1909, 504, § 50, as amended by 1914, 558, amended.

Commitment of dipsomaniacs, etc.

commitment shall be made until satisfactory evidence is presented to the judge by whom the proceedings for commitment are heard that such person is not of bad repute or of bad character apart from such habits of intemperance. The magistrate who receives the application for such commitment shall examine on oath the applicant and all other witnesses, shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventeen of the Revised Laws. Such person shall be entitled to a hearing, unless after receiving said summons he shall in writing waive a hearing; and in that case the magistrate may issue an order for his immediate commitment to said hospital without such hearing if he is of the opinion that such person is a proper subject for its treatment and custody. The commitment may be made forthwith, if the examining physician certifies the case to be one of emergency. A person committed as aforesaid may be detained for two years from the date of his commitment and no longer.

SECTION 2. This act shall take effect upon its passage. [*Approved March 17, 1915.*

Appeal from order of commitment. R. L. 87, § 62.

SECTION 51. A person may appeal from the order of commitment as a dipsomaniac or inebriate, or as addicted to the intemperate use of narcotics or stimulants, to the superior court sitting for criminal business in the county from which he is committed, in the manner provided by section twenty-eight of chapter one hundred and fifty-seven of the Revised Laws, but he shall be held in such hospital to abide the final order of the court until he recognizes in the manner provided in section twenty-two of chapter two hundred and nineteen of the Revised Laws, as amended. Upon such appeal the judge who ordered the

commitment may bind the witnesses by recognizance as provided in chapter two hundred and seventeen of the Revised Laws, and shall make a copy of the order of commitment and other proceedings in the case and transmit the same with the recognizance, if any, to the clerk of the superior court. If the appellant so requests, an issue or issues shall be framed and submitted to a jury in the superior court.

SECTION 52. If the appellant fails to enter and prosecute his appeal he shall be defaulted on his recognizance, and the superior court may enter an order in like manner as if he had been ordered to be committed by that court; and process may issue, if necessary, to bring him into court to be recommitted.

SECTION 53. The appellant may at any time before the copy of the proceedings has been transmitted to the superior court be brought personally before the judge from whose order the appeal was taken, and, at his request, may be permitted by the judge in his discretion to withdraw his appeal and abide by the order of said judge, who shall order that the appellant comply with the order appealed from in the same manner as if it were then imposed.

Voluntary admissions. 1906, 316.

SECTION 54. Any person who is a dipsomaniac or inebriate or addicted to the intemperate use of narcotics or stimulants, who is desirous of submitting himself for treatment in the Foxborough state hospital, or any hospital for the insane, or any hospital or receptacle licensed under the provisions of section twenty-four, and makes written application therefor, may be received by the trustees, superintendent or manager of such hospital or receptacle and detained therein as a boarder and patient. Such person shall not be detained for more than three days after having given notice in writing of his intention or desire to leave the institution. The charges for the support of such person in a state institution shall be governed by the provisions of law applicable to the sup-

port of an insane person in said institution, provided the approval of the state board of insanity shall be obtained in writing.

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General laws applicable. R. L. 87, § 65.

SECTION 56. The provisions of this chapter relative to the commitment of insane persons to a hospital for the insane shall, unless it is otherwise expressly provided, apply to and govern commitments under the provisions of sections fifty to fifty-three inclusive, except that it shall be specifically alleged that a person who is committed thereunder is a dipsomaniac or inebriate or is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self control, instead of alleging that he is insane. [*Approved June 16, 1909.*

[1910, 635.]

AN ACT TO PROVIDE FOR THE PURCHASE OF A SITE FOR THE CONSTRUCTION OF A NEW HOSPITAL FOR DIPSOMANIACS.

Purchase of site for the construction of a new hospital for dipsomaniacs, etc.

SECTION 1. The trustees of the Foxborough state hospital are hereby authorized to purchase a site for the construction of a new hospital for dipsomaniacs in such cities or towns as they may select, subject to the approval of the governor and council. The said trustees may also purchase any personal property which may be on the real estate selected by them for the above purpose. With the approval of the state board of charity, they may alter and repair any buildings upon the property so purchased, and may make all contracts and employ all agents necessary to carry out the provisions of this act. Any reasonable expense incurred in the performance of their duties under this act shall be paid from the appropriation for carrying out the provisions hereof. For the above purpose a sum not exceeding fifty thousand dollars may be expended, but no expenditure shall be made except for the purchase of real estate with the personal property thereon as aforesaid until the state board of charity shall certify to the

Expenditure.

governor and council that in its opinion the cost of purchasing the land and buildings and of altering and repairing the same and making them ready for occupancy will not exceed fifty thousand dollars; and the total expenditures made and liabilities incurred under this act shall not exceed the said amount.

SECTION 2. This act shall take effect upon its passage. [*Approved June 15, 1910.*

[1912, 530.]

AN ACT RELATIVE TO THE NEW HOSPITAL FOR DIPSOMANIACS IN THE TOWNS OF NORFOLK AND WALPOLE.

New hospital for dipsomaniacs.

SECTION 1. The new hospital for dipsomaniacs in the towns of Norfolk and Walpole, which was purchased in accordance with chapter six hundred and thirty-five of the acts of the year nineteen hundred and ten and has been maintained in accordance with chapter seven hundred and fifty-four of the acts of the year nineteen hundred and eleven, shall be known as the Norfolk state hospital.

Commitment, admittance, etc.

SECTION 2. All laws pertaining to the commitment, admittance, care, custody, treatment and discharge of inebriates and habitual users of drugs which now apply to the Foxborough state hospital and the patients therein shall also apply to the Norfolk state hospital and the patients therein.

To be under the supervision of the State board of charity.

SECTION 3. The Norfolk state hospital shall be administered by the trustees of the Foxborough state hospital, under the supervision of the state board of charity. Said trustees shall have the same powers, including the power of appointment of officers and employees, and the power to make by-laws and regulations, and shall be subject to the same duties, in regard to the Norfolk state hospital, which they now have or are now subject to in regard to the Foxborough state hospital.

SECTION 4. This act shall take effect upon its passage. [*Approved April 25, 1912.*

[1914, 358, § 1.]

AN ACT TO PROVIDE FOR A NEW BOARD OF TRUSTEES FOR THE FOXBOROUGH STATE HOSPITAL.

Trustees of the Norfolk state hospital, created.

SECTION 1. From and after the first Monday of June, nineteen hundred and fourteen, the trustees of the Foxborough state hospital shall have no further power or authority over the Foxborough state hospital but shall have and continue to exercise the power and authority heretofore given them over the Norfolk state hospital, subject to the supervision of the state board of charity, and shall be known as the trustees of the Norfolk state hospital. Said trustees shall have authority and power to make by-laws and regulations for the administration and government of the Norfolk state hospital. All acts and parts of acts in regard to the commitment, admission, care, maintenance, detention, release and discharge of inebriates and persons addicted to drugs which have heretofore applied to the Foxborough state hospital shall hereafter apply to the Norfolk state hospital. There shall be transferred from the Foxborough state hospital to the Norfolk state hospital all books and documents relating to the care of inebriates and of persons addicted to drugs, and all records of former patients at the Foxborough state hospital except such persons as were committed to said hospital as insane persons. [*Approved April 15, 1914.*

All laws regarding commitment, etc., to Foxborough state hospital, applicable.

[1915, 136, GEN.]

AN ACT RELATIVE TO THE SERVICE OF WARRANTS AND PROCESSES FOR THE APPREHENSION AND COMMITMENT OF INSANE PERSONS AND OTHERS.

Warrants, etc., by whom served.

Warrants and all other processes which are issued by a judge for the apprehension or commitment of insane persons, or of persons subject to dipsomania or inebriety, or who are addicted to the intemperate use of narcotics or stimulants, or of feeble-minded persons, or of persons

subject to epilepsy, may be directed to and served by a court officer, by any sheriff, deputy sheriff, constable or police officer, or by any private person whom said judge may designate; and such warrants and processes may run into any county in which any of said persons to be apprehended or committed may be found, and any of such officers or persons to whom such warrants and processes are directed may serve the same in any part of the commonwealth. [*Approved April 3, 1915.*

STATE TRAINING SCHOOLS. JUVENILE OFFENDERS.

R. L. CHAPTER 86.

OF THE LYMAN SCHOOL FOR BOYS, THE INDUSTRIAL SCHOOL FOR GIRLS AND THE REFORMATION OF JUVENILE OFFENDERS.

For act consolidating Boards of Trustees of the Industrial Schools, see 1911, 566, p. 218, infra.

Sections 1– 9. — Trustees, Superintendents and Other Officers.
Sections 10–54. — Juvenile Offenders.

Trustees, Superintendents and Other Officers.

Section 1. The government of the state industrial school for girls at Lancaster, and the Lyman school for boys at Westborough, and the custody of all children committed thereto, shall be vested in a board of seven trustees, two of whom shall be women, who shall be known as the trustees of the Lyman and industrial schools. The trustees shall be appointed by the governor, with the advice and consent of the council, for a term of five years. Two members shall retire each year for two years successively, and one member a year for three years successively. No person who is employed by the board and receives compensation shall be a member thereof. The board shall be a corporation for the purpose of taking, holding and investing, in trust for the commonwealth,

Trustees of Lyman and industrial schools.
1847, 165, §§ 1, 14.
1848, 305.
1850, 112, § 2.
1855, 442, §§ 1, 24.
1856, 63.
1859, 177, § 3.
G. S. 75, § 1; 76, §§ 1, 2.
1868, 153.
1873, 166.
1877, 195, § 1.
1879, 291, § 8.
P. S. 89, § 1.
1884, 323, § 1.
1895, 428, §§ 2, 4.
136 Mass. 581.

any grant, devise, gift or bequest made for the use of any institution of which they are trustees; and they shall succeed to the trusts and powers formerly held or acquired by the boards of trustees and treasurers of the state reform and the state industrial schools, and shall retain all the trusts, rights, powers and duties of the trustees of the state primary and reform schools.

See 1905, 211, p. 129, supra, establishing a new fiscal year for the Commonwealth; 1902, 438, establishing a State Board of Publication.

Officers of schools.
1847, 165, § 2.
1855, 442, § 2.
G. S. 75, § 2; 76, § 4.
1879, 291, § 10.
P. S. 89, § 2.

Section 2. The trustees shall annually elect a superintendent and a physician of each of said schools, and shall, subject to the approval of the governor and council, fix their compensation. The superintendent of each school shall, with the approval of the trustees, appoint the other officers and fix their compensation; but the amount paid for such salaries shall not exceed in the aggregate the appropriation by the general court for the purpose.

Powers and duties of trustees.
1847, 165, § 2.
1855, 442, § 2.
G. S. 75, § 2; 76, §§ 3, 4.
1879, 291, § 8.
P. S. 89, § 8.

Section 3. The trustees shall have the control of the land and buildings of the Lyman and industrial schools, shall take charge of the general interests of each institution, see that its affairs are conducted according to law and according to such by-laws as they may from time to time adopt, and that strict discipline is maintained therein; provide employment for the inmates, and bind out, discharge, or remand them, as hereinafter provided; exercise a vigilant supervision over the institution, its officers and inmates, and prescribe the duties of the officers. The by-laws may be amended by the assent of five trustees at a legal meeting; but no amendment shall be valid until approved by the governor and council.

Instruction, etc., of boys and girls.
1847, 165, § 9.
1855, 442, § 19.
G. S. 75, § 20; 76, § 5.
P. S. 89, § 9.

Section 4. The trustees shall cause the girls and boys under their charge to be instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity; and in some regular course of labor, either mechanical, manufacturing, agricultural or horticultural, for the boys; or mechanical, manufacturing

or horticultural, and especially in domestic and household labor and duties, for the girls; or a combination of these, as may be best suited to their age, strength, disposition and capacity; and in such other arts, trades and employments as may seem to the trustees best adapted to secure their reformation, amendment and future benefit.

Examination of schools, records, reports. 1847, 165, § 15. 1855, 442, § 25. 1857, 40, § 1. 1859, 177, § 2. G. S. 75, § 25; 76, § 7. 1880, 208, § 4. P. S. 89, § 10.

Section 5. One or more of the trustees shall visit each school at least once in every two weeks. At such time the girls and boys shall be examined in the school rooms and workshops and the registers shall be inspected. A record shall be kept of these visits in the books of the superintendents. Once in every three months, each school in all its departments shall be thoroughly examined by a majority of the trustees, and a report thereof made to the board. On or before the fifteenth day of October in each year, an abstract of these quarterly reports shall be prepared, which, with a full report by the superintendents, a list of the salaried officers and their salaries, and a copy of the inventory required by the provisions of section seven of chapter eighty-four shall be laid before the governor and council for the information of the general court.

Superintendents, duties of. 1847, 165, § 10. 1855, 442, § 20. G. S. 75, § 21; 76, § 8. P. S. 89, § 11.

Section 6. The superintendent of each school, with the subordinate officers, shall have the general charge and custody of the inmates thereof. He shall be a constant resident at the school, and, under the direction of the trustees, shall discipline, govern, instruct and employ, and use his best endeavors to reform, the inmates in such manner as shall, while preserving their health and promoting their proper physical development, secure the formation of moral, religious and industrious habits, and of regular and thorough progress and improvement in their studies, trades and employments.

See 1908, 639, § 6, p. 209, infra.

— bond, accounts of, etc. 1847, 165, § 11. 1855, 442, § 21.

Section 7. Each superintendent shall before entering upon his duties give bond to the commonwealth, with sureties approved by the governor and council, in the sum

G. S. 75, § 22; 76, § 9. P. S. 89, § 12.

of two thousand dollars, conditioned that he shall faithfully perform all his duties and account for all money received by him as superintendent. The bond shall be filed in the office of the treasurer and receiver general. Each superintendent shall have charge of all the property of the institution within the precincts thereof. He shall keep accounts of all his receipts and expenditures, and of all property intrusted to him, showing the income and expenses of the institution; and shall account to the trustees, in such manner as they may require, for all money received by him. His books and all documents relative to the school shall at all times be open to the inspection of the trustees, who shall at least once in every six months carefully examine the books and accounts, and the vouchers and documents connected therewith, and make a record of the result of such examination. He shall keep a register, containing the name, age and circumstances connected with the early history of each girl or boy, and shall add such facts as come to his knowledge relative to her or his history while at the institution, and after leaving it.

See, as to approval of bond, 1904, 295; as to expenses of bond, 1908, 469; as to estimates, etc., 1907, 271, 520, p. 137, supra; as to accounts, 1908, 195, 597; and as to Industrial School for Boys, 1908, 639, § 6, p. 209, infra.

Purchase of books with Rogers fund. 1857, 215. G. S. 75, § 22. P. S. 89, § 13.

Section 8. The superintendent of the industrial school shall, under the direction of the trustees, purchase books with the income and profits, and according to the terms, of the donation of Henry B. Rogers.

Superintendents to make all contracts in writing. 1847, 165, § 12. 1855, 442, § 22. G. S. 75, § 23; 76, § 10. P. S. 89, § 14.

Section 9. Each superintendent shall make all contracts on account of the institution in writing, with the approval of the trustees if their by-laws require it; and he or his successor may sue or be sued thereon to final judgment and execution. No suit shall abate by reason of the office of superintendent becoming vacant, but any successor in office may take upon himself the prosecution or

defence thereof; and upon motion of the adverse party and notice, he shall be required so to do.

See 1908, 639, § 6, p. 209, infra.

Juvenile Offenders.

Commitments by whom made. 1847, 165, § 4. 1855, 442, § 8. 1861, 200. 1870, 359, § 7. 1871, 365. 1872, 358, § 1. 1874, 258, §§ 1, 4. 1877, 210, § 5; 211, § 6. P. S. 89, § 15. 1884, 255, § 11; 323, § 3.

Section 10. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Boys under fifteen years of age may be committed to the Lyman school by police, district and municipal courts and trial justices, and, except in the county of Suffolk, by judges of probate. Girls under seventeen years of age may be committed to the industrial school by said courts, judges and justices, except as aforesaid, and, except in the county of Suffolk, by commissioners, as hereinafter provided in this chapter.

See also, as to habitual truants, etc., 1906, 389; as to attendance of parents, etc., 1907, 195; as to arrest, 1907, 362; 1908, 286; and as to Industrial School for Boys, 1908, 639, § 6, p. 209, infra.

Revision of sentence of boys over fifteen. 1884, 323, § 3.

Section 11. If, within twenty days after the commitment of a boy to the Lyman school, the trustees have reason to believe that at the time of his commitment he was more than fifteen years of age, they may apply to the court by which the commitment was made for a revision of sentence, and if it finds that he was not under fifteen years of age at the time of his commitment, shall impose such sentence as should have been imposed.

Judges of probate may act in any county except Suffolk. 1855, 442, § 9. 1870, 359, § 13. P. S. 89, § 16.

Section 12. Judges of probate, except in the county of Suffolk, may receive complaints, issue warrants, and hear cases against juvenile offenders at such times or places, in or out of their respective counties, as convenience may require. The judge of probate may act in such case for the judge of any other county, whether absent or not, if so requested.

Commissioners to hear complaints against girls. 1855, 442, § 9. G. S. 75, § 5. P. S. 89, § 17.

Section 13. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Upon request of the mayor and aldermen, selectmen or overseers of the poor of a city or town, except in the county of Suffolk, the governor, with the advice and

consent of the council, shall appoint and commission, in the same manner as justices of the peace are appointed and commissioned, one or more suitable persons residing in such city or town, who may therein hear and determine complaints against girls and make commitments to the industrial school under the provisions of this chapter.

Warrants to apprehend boys and girls.
1855, 442, §§ 4, 8.
1859, 286, §§ 1, 4.
1861, 200.
1863, 139, § 2.
1864, 202, § 2.
1870, 359, § 7.
1871, 365.
1872, 68, § 5; 358, § 4.
P. S. 89, § 18.
122 Mass. 330.
127 Mass. 450.
146 Mass. 492.
167 Mass. 420.

Section 14. [*Superseded in part by 1906, 413, 389, p. 189, infra.*] Upon complaint against any boy or girl between the ages of seven and seventeen years, for any offence not punishable by death or imprisonment for life, such court or magistrate shall examine on oath the complainant and the witnesses produced by him, shall reduce the complaint to writing and cause it to be subscribed by the complainant, and may issue a warrant reciting the substance of the accusation and requiring the officer to whom it is directed forthwith to take the person accused and bring him or her before said court or magistrate, to be dealt with according to law; and to summon such witnesses as shall be named therein to appear and give evidence on the examination.

See references under § 10.

Summons instead of warrant, when.
1882, 127, §§ 3, 4.

Section 15. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Upon complaint against a child under twelve years of age for an offence not punishable by death or imprisonment for life, except the offence of being an habitual truant or an habitual school absentee under the provisions of sections three and four of chapter forty-six, such court or magistrate shall, if an examination is considered necessary, first issue a summons to said child requiring him to appear before such court or magistrate at the time and place named therein, and, if the child fails to appear as directed by said summons, shall issue a warrant for his arrest.

See references under § 10.

Separate trial of juvenile offenders.
1874, 258, § 3.

Section 16. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Police, district and municipal courts shall try

juvenile offenders separate and apart from the trial of other criminal cases, at suitable times which shall be designated therefor by said courts and shall be called the session for juvenile offenders, for which a separate docket and record shall be kept.

1877, 210, § 5.
P. S. 89, § 19.

See references under § 10.

Section 17. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] If a boy or a girl is brought on a complaint under the provisions of sections fourteen and fifteen before such court or magistrate, a summons shall be issued to his or her father, if living and resident within the place where he or she was found, and, if not, then to the mother, if she is living and so resident; and, if there is no such father or mother, then to the lawful guardian, if there is one so resident; if not, then to the person with whom, according to the statement of such boy or girl, and such testimony as shall be received, he or she resides; and if there is no such person, the court or magistrate may appoint a suitable person to act in behalf of such boy or girl, requiring him or her to appear at a time and place stated in the summons and show cause why such boy or girl should not be committed to the Lyman school or industrial school respectively. If the court or magistrate is of the opinion that such boy or girl should, if guilty, be sent to a public institution or committed to the custody of the state board of charity, he or it shall cause written notice of such complaint to be given by mail or otherwise to the board, which shall have an opportunity to investigate the case, attend the trial and protect the interests of, or otherwise provide for, the child.

Proceedings before judge, etc.
1855, 442, § 4.
1859, 286, § 1.
G. S. 75, § 6; 76, § 17.
1870, 359, § 8.
P. S. 89, § 20.
1883, 110.
1886, 101, § 4.
1898, 433, § 24.
5 Allen, 509.

See references under § 10.

Section 18. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Such boy or girl of twelve years of age or over, who is arrested on any complaint referred to in sections fourteen and fifteen, may be held or committed to jail by

Child may be committed to jail, or bailed.
1870, 359, § 9.
P. S. 89, § 21.
1882, 127, § 1.

the officer having said child in custody until the time appointed for the trial, unless admitted to bail as provided in section fifty-six of chapter two hundred and seventeen, and the judge of probate, as well as the magistrates named in said section, may admit to bail.

See references under § 10.

Disposition in default of bail, if under twelve. 1882, 127, § 2.

Section 19. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] A child under twelve years of age who is held for examination or trial, if unable to furnish bail, shall be committed to the custody of the state board of charity, which shall provide for his safe keeping and for his appearance at his examination or trial at the time and place named in the mittimus.

See references under § 10.

Commitments of young children limited. R. S. 143, § 18. 1859, 286, § 3. G. S. 174, § 15. 1865, 208, § 1.

Section 20. [*Amended by 1902, 314, infra, but further superseded by 1906, 413, § 3, p. 190, infra.*] A child under twelve years of age shall not be committed to a jail or house of correction, to the state farm, or to the house of correction at Deer Island in the city of Boston, in default of bail, or for the non-payment of a fine or upon conviction of any offence not punishable by death or imprisonment for life. P. S. 215, § 13. 1882, 127, § 1. 1890, 440, § 3. 1896, 536, § 9.

[1902, 314.]

An Act relative to the commitment of young children.

R. L. 86, § 20, amended.

Section 1. [*Superseded by 1906, 413, § 3.*] Section twenty of chapter eighty-six of the Revised Laws is hereby amended by inserting after the word "committed", in the second line, the words: — to a police station, — and by inserting after the word "Boston", in the third line, the words: — pending an examination, — so as to read as follows: — *Section 20.* A child under twelve years of age shall not be committed to a police station, to a jail or house of correction, to the state farm, or to the house of correction at Deer Island in the city of Boston, pending an examination, in default of bail, or for the non-payment of a fine or upon conviction of any offence not punishable by death or imprisonment for life.

Commitments of young children limited.

Section 2. This act shall take effect upon its passage. [*Approved April 17, 1902.*

State board may indenture child upon request. 1869, 453, § 4. 1870, 359, § 10. 1871, 365. 1876, 121, § 2.

Section 21. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] The court or magistrate, before whom a boy or girl is brought on a complaint under the provisions of sections fourteen and fifteen, upon request of the state

board of charity, may authorize said board to take and indenture, or place in charge of any person, or, if he or she proves unmanageable, to commit such boy, if under fifteen years of age, to the Lyman school or such girl, if under seventeen years of age, to the industrial school, until he or she attains the age of twenty-one years. Said board may provide for the maintenance, in whole or in part, of any such boy or girl so indentured or placed in charge of a person. The state board may discharge from custody any child who has been committed to its care under the provisions of this section.

P. S. 89, §§ 22, 50. 1895, 428, § 4. 146 Mass. 494.

Examination, trial, commitment. 1847, 165, § 4. 1855, 442, §§ 4, 5.

1859, 170, § 3; 286, §§ 1, 3. G. S. 75, § 7; 76, §§ 18, 19. 1862, 9. P. S. 89, §§ 23, 24.

Section 22. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] At the time named in the summons, such court or magistrate shall examine the boy or girl and any person who appears in answer to the summons, and take such testimony relative to the case as may be produced. If the allegations are proved, and it appears that the boy or girl is a suitable subject for the Lyman or industrial school, and that his or her moral welfare and the good of society require that he or she should be sent thereto for instruction, employment or reformation, a warrant of commitment shall be issued in substance as follows: —

To the sheriff of our county of M. , or either of his deputies, or any constable or police officer of the town of B. , in the county of . You are hereby commanded to take charge of C. D., a boy [or girl] between the ages of seven and fifteen [or seventeen if a girl] years, who has been proved to be a suitable subject for the Lyman school, [or state industrial school for girls], and a proper object for its care, discipline and instruction, and deliver said boy [or girl], without delay, to the superintendent of said school, or other person in charge thereof, at the place where the same is established. And for so doing this shall be your sufficient warrant.

Dated this day of 19 , at , in the county of in the commonwealth of Massachusetts.

No variance from said form shall be considered material if it sufficiently appears upon the face thereof that the boy

or girl is committed by the court or magistrate in the exercise of the powers conferred by this chapter. The warrant may be executed by any officer qualified to serve civil or criminal process in the county in which the case is heard. Accompanying the warrant, the court or magistrate shall transmit to the superintendent, by the officer serving it, a statement of the substance of the complaint and testimony given in the case, and such other particulars relative to the boy or girl committed as can be ascertained.

Certificate of residence and age of boy or girl.
1858, 25.
1859, 286, § 1.
G. S. 76, § 19.
P. S. 89, § 24.
146 Mass. 489.

Section 23. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] The court or magistrate shall certify in such warrant the age of such boy or girl as near as can be ascertained, and the place in which he or she resided at the time of arrest, and such certificate, for the purposes of this chapter, shall be conclusive evidence of his or her residence.

Commitment of vagrant girls.
1855, 442, § 4.
G. S. 75, §§ 6, 7.
P. S. 89, § 25.
5 Allen, 509.

Section 24. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Upon complaint that a girl is leading an idle, vagrant or vicious life, or has been found in any street, highway or public place, in circumstances of want and suffering, or of neglect, exposure, abandonment or beggary, the proceedings shall be had which are prescribed in sections seventeen to nineteen and twenty-one to twenty-three, inclusive.

Second commitments, as to.
1855, 442, § 6.
G. S. 75, § 10; 76, § 22.
P. S. 89, § 26.

Section 25. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] If a boy or girl who has been previously committed to the Lyman or industrial school is again brought before such court or magistrate upon any such complaint, the case may be examined and a warrant issued for a recommitment of such boy or girl, without issuing the summons required by the provisions of section seventeen.

Sentence of boys, etc., unfit for such schools.
1859, 286, § 3.
G. S. 76, § 23.
1872, 68, § 5.
P. S. 89, § 27.

Section 26. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] If a boy or girl who is found guilty before a police, district or municipal court, or a trial justice, is not considered a fit subject for the Lyman or industrial school, he or she shall be sentenced or bound over to appear before the superior court according to the usual course of criminal proceedings.

SECTION 27. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] If a boy or a girl is found guilty by the judge of probate of any offence which is not punishable by a capital or infamous punishment, unless disposed of as provided in section twenty-one, the boy may be sentenced and committed to the Lyman school if under fifteen years of age, or to any institution established by law for the reformation of juvenile offenders, and the girl may be sentenced and committed to the industrial school if under seventeen years of age, or in either case, the judge may, in his discretion, impose such other punishment as is provided for the offence.

Sentence of boys, etc., by judge of probate. 1870, 359, §§ 11, 12. P. S. 89, §§ 28, 29. 108 Mass. 492. 127 Mass. 450.

For what must be stated in the warrant for commitment, see 1910, 316.

SECTION 28. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] A boy or girl who is ordered to be committed to the Lyman or industrial school, respectively, or sentenced as aforesaid, may appeal to the superior court, and the appeal shall be there entered, tried, and determined in like manner and subject to like provisions as appeals from trial justices in criminal cases.

Appeal. 1855, 442, § 7. 1859, 286, § 2. G. S. 75, § 12; 76, § 24. P. S. 89, § 30. 108 Mass. 492.

SECTION 29. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] Warrants issued by judges of probate, trial justices or commissioners, for the commitment of girls to the industrial school, may be returned to the clerks of the superior court, and all fees thereon shall be allowed in the same manner as expenses are allowed in criminal proceedings.

Return of warrants for commitment of girls. 1861, 116. P. S. 89, § 31.

SECTION 30. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] A summons to appear before a court or magistrate as provided in section seventeen, unless service thereof is waived in writing, shall be served by a constable or police officer by delivering it personally to the person to whom it is addressed, or by leaving it with a person of sufficient age at the place of residence or business of such person; and said constable or police officer shall immediately make return to the same court or magistrate of the time and manner of such service.

Service of summons. 1855, 442, § 5. G. S. 75, § 8; 76, § 20. 1863, 139, § 3. P. S. 89, § 32.

Fees of judges and officers. 1855, 442, § 10. G. S. 75, § 11; 76, § 25. P. S. 89, § 33.

Section 31. [*Amended by 1904, 459, § 6, infra.*] The fees and compensation allowed to judges of probate and commissioners under the provisions of this chapter shall be the same as by law are allowed to trial justices; and all officers serving process shall be allowed the same fees as they are entitled to for serving process in criminal proceedings.

See 1906, 413, p. 189, infra.

[1904, 459, §§ 6, 7.]

An Act relative to commitments of insane persons and to the fees received therefor.

R. L. 86, § 31, amended.

Section 6. Section thirty-one of chapter eighty-six of the Revised Laws is hereby amended by striking out in the first and second lines, the words "Judges of probate and", — so as to read as follows: — *Section 31.* The fees and compensation allowed to commissioners under the provisions of this chapter shall be the same as by law are allowed to trial justices; and all officers serving process shall be allowed the same fees as they are entitled to for serving process in criminal proceedings.

Fees of officers, etc.

To take effect July 1, 1904.

Section 7. This act shall take effect on the first day of July in the year nineteen hundred and four. [*Approved June 9, 1904.*

Boys convicted in superior court may be sentenced to Lyman school, when. 1859, 170, § 3; 286, § 4. G. S. 76, § 26. 1863, 139, § 1. 1864, 202, § 1. 1872, 68, § 5. P. S. 89, § 34. 120 Mass. 388.

Section 32. [*Superseded in part by 1906, 413, 489, p. 189, infra.*] If a boy between the ages of seven and fifteen years is convicted in the superior court of an offence which is punishable by imprisonment other than imprisonment for life, he may be sentenced to the Lyman school or to such punishment as is otherwise provided by law. Upon a commitment under the provisions of this section, the statement and certificate required by sections twenty-two and twenty-three shall be made and transmitted as therein provided.

Term of detention. 1847, 165, §§ 5, 7. 1855, 442, §§ 5, 11, 13. 1859, 286, § 4. G. S. 75, § 13;

Section 33. All boys and girls who are committed to the Lyman school or the industrial school shall be there kept, disciplined, instructed, employed and governed, under the direction of the trustees, until they attain the

age of twenty-one years, or are bound out or otherwise legally transferred or discharged. The discharge of a boy as reformed, or upon attaining the age of twenty-one years, shall be a complete release from all penalties and disabilities created by the sentence.

76, § 27. 1863, 184, § 1. 1864, 290. P. S. 89, § 35. 1895, 428, § 4.

Section 34. [*Amended by 1911, 489, infra.*] Corporal punishment shall be permitted in the Lyman school only under such rules and regulations and by such modes as shall be prescribed by the trustees. No such punishment shall be inflicted except by the direction of the superintendent or assistant superintendent in charge, to whom the offence shall be reported, and who shall designate the nature and extent of punishment to be inflicted. In every case of such punishment, a record of the offence and the mode and extent of the punishment shall be made and presented to the trustees at their next meeting.

Corporal punishment regulated. 1877, 233. P. S. 89, § 36.

For act prohibiting solitary confinement see 1911, 265, p. 218, infra.

[1911, 489.]

AN ACT TO RESTRICT CORPORAL PUNISHMENT IN THE LYMAN SCHOOL FOR BOYS.

Section 1. Section thirty-four of chapter eighty-six of the Revised Laws is hereby amended by adding at the end thereof the words: — Such punishment shall not be inflicted until the expiration of twenty-four hours after the same has been authorized as aforesaid, and no inmate shall be subjected to such punishment more than once in any one day, — so as to read as follows: — *Section 34.* Corporal punishment shall be permitted in the Lyman school only under such rules and regulations and by such modes as shall be prescribed by the trustees. No such punishment shall be inflicted except by the direction of the superintendent or assistant superintendent in charge, to whom the offence shall be reported, and who shall designate the nature and extent of punishment to be inflicted. In every case of such punishment, a record of the offence and the mode and extent of the punishment shall be made and presented to the trustees at their next meeting. Such punishment shall not be inflicted until the expiration of twenty-four hours after the same has been authorized as

R. L. 86, § 34, amended.

Corporal punishment, etc.

aforesaid, and no inmate shall be subjected to such punishment more than once in any one day.

Section 2. This act shall take effect upon its passage. [*Approved May 27, 1911.*

Chapter applicable to boys and girls convicted in United States courts. 1866, 274. P. S. 89, § 37.

Section 35. The provisions of this chapter relative to the Lyman or industrial school shall extend to boys and girls who are committed by authority of the courts or magistrates of the United States. 1887, 426, § 2.

Release on probation. 1895, 428, §§ 3, 4.

Section 36. [*Amended by 1904, 363, § 2, infra. See also 1905, 464, p. 117, supra.*] The trustees of the Lyman and industrial schools may release on probation, and, with or without indenture, may, subject to the provisions of section fifty-two, place children in their custody in their usual homes or in any situation or family which has been investigated and approved by said trustees. They may employ agents for investigating places and for visiting children, and immediately on placing such children shall give notice to the state board of charity of the name of each child so placed and of the name and residence of the person to whose care he is entrusted. They may, at any time until the expiration of the period of commitment, resume the care and custody of children who are released on probation and recall them to the school to which they were originally committed.

[1904, 363, § 2.]

An Act relative to the religious instruction of prisoners and of children bound out in families.

R. L. 86, § 36, amended.

Section 2. Section thirty-six of chapter eighty-six of the Revised Laws is hereby amended by adding at the end thereof the words: — and the trustees shall bind out children in families or homes of the religious belief of such children, but, if this be impracticable, then due regard shall be had to the locality, and, if practicable, the home shall be such that the children shall have the opportunity to attend religious worship of their own belief, — so as to read as follows: — *Section 36.* The trustees of the Lyman and industrial schools may release on probation, and, with or without indenture, may, subject to the provisions of section fifty-two, place children in their custody in their usual homes or in any situation or family which has been investigated and approved by said trustees. They may employ agents for investigating places and for visiting

Certain children may be released on probation, etc.

children, and immediately on placing such children shall give notice to the state board of charity of the name of each child so placed and of the name and residence of the person to whose care he is entrusted. They may, at any time until the expiration of the period of commitment, resume the care and custody of children who are released on probation and recall them to the school to which they were originally committed; and the trustees shall bind out children in families or homes of the religious belief of such children, but, if this be impracticable, then due regard shall be had to the locality, and, if practicable, the home shall be such that the children shall have the opportunity to attend religious worship of their own belief. [*Approved May 23, 1904.*

Religious instruction.

Further, as to religious beliefs, see 1905, 464, p. 117, and 1912, 562, p. 281, supra.

SECTION 37. The trustees may bind out as an apprentice or servant any girl committed to their charge until she is eighteen years of age, and any boy until he is twenty-one years of age, or for any less term; and the trustees, master or mistress, apprentice or servant, shall be subject to the provisions of chapter one hundred and fifty-five, in the same manner as if such binding or apprenticing were made by overseers of the poor. In binding out girls and boys, the trustees shall have scrupulous regard to the religious and moral character of those to whom they are to be bound, that they may secure to the girls and boys the benefit of a good example and wholesome instruction, and the best means of improvement in virtue and knowledge, and thus the opportunity of becoming intelligent, moral, useful and happy.

Binding out girls and boys.
1847, 165, § 8.
1850, 112, § 1.
1855, 442, §§ 14, 19.
1858, 110.
G. S. 75, §§ 15, 20; 76, § 6.
P. S. 89, § 38.

SECTION 38. The master to whom a girl is bound shall, by the terms of the indenture, be required to report to the trustees, at least once in every six months, her conduct and behavior, and whether she is still living under his care, and, if not, where she is.

Terms of indentures of girls.
1855, 442, § 18.
G. S. 75, § 15.
P. S. 89, § 39.

Terms of indentures of girls and boys. 1869, 302, § 1. 1879, 291, § 3. P. S. 89, § 40.

Section 39. If a minor is bound out as an apprentice or servant by the trustees of the state hospital or the trustees of the Lyman and industrial schools, the indenture shall provide that, if at any time it appears to the trustees by whom the same is executed or their successors in office that the further continuance of the indenture will be prejudicial to the well-being of the apprentice or servant, the board may annul the indenture by giving written notice to the master of their intention to cancel the same, stating their reasons therefor, and may forthwith remove the said apprentice or servant from the care and keeping of the said master.

Execution of indenture not a discharge. 1869, 302, § 2. P. S. 89, § 41.

Section 40. The execution of such conditional indenture shall not operate as a discharge of the minor from confinement under any sentence or order of commitment; and if any such indenture is cancelled, the trustees shall have the same power and authority relative to the minor as before it was made.

Indenture of apprenticeship of girls not to be assigned. 1855, 442, § 15. G. S. 75, § 16. P. S. 89, § 42.

Section 41. A person who receives a girl as apprentice under the provisions of this chapter shall not assign or transfer the indenture of apprenticeship nor let out her services for any period without the consent in writing of the trustees. If the master for any cause desires to be relieved from the contract, the trustees upon application may in their discretion cancel the indenture and resume the charge and management of the girl, and shall have the same power and authority relative to her as before the indenture was made.

Discharge of girl when master is guilty of cruelty, etc. 1855, 442, § 16. G. S. 75, § 17. P. S. 89, § 43.

Section 42. If a master is guilty of cruelty or misusage toward a girl so bound to service, or of any violation of the terms of the indenture, the girl or trustees may make complaint to a court, judge, trial justice or commissioner aforesaid, who shall summon the parties before him and examine into the complaint; and if it appears to be well founded, he shall by certificate under his hand discharge the girl from all obligations of future service, and restore her to the school to be held as before her indenture.

Assignment of indenture on death of master. 1855, 442, § 17. G. S. 75, § 18. P. S. 89, § 44.

Section 43. Upon the death of the master to whom a girl is so bound to service, his executor or administrator, with the consent of the girl in writing, acknowledged by her and approved by the trustees, may assign the indenture to some other person. Such assignment shall transfer to and vest in the assignee all rights and subject him to all responsibilities of the original master.

Trustees may discharge boys or girls. 1855, 442, § 12. G. S. 75, § 14. P. S. 89, § 45. 1889, 123.

Section 44. The trustees may discharge and return to his parents, guardian or protector any boy who, in their judgment, is physically or mentally unfit to remain in the school, and they shall discharge and return to her parents, guardian or protector, any girl who, in their judgment, ought for any cause to be removed from the school. In such case the trustees shall make an entry upon their records of the name of such boy or girl, the person to whom he or she was returned, the date when he or she was discharged from the custody of the school and a statement of the reasons for his or her discharge. They shall forthwith transmit a copy of such record signed by their secretary to the court, judge, trial justice or commissioner by whom the boy or girl was committed.

For sufficiency of age and schooling certificates, see 1909, 514, § 59, p. 215, infra. For further provision as to discharge, see 1915, 113, Gen., §§ 1, 2, p. 226, infra.

Trustees to act as guardians of girls discharged or bound out. 1855, 442, § 18. G. S. 75, § 19. 1863, 184, § 2. P. S. 89, § 46.

Section 45. The trustees shall be the guardians of every girl so bound or held for service, and shall take care that the terms of the contract are faithfully fulfilled and that she is properly treated. They shall especially inquire into the treatment of every such girl, and cause any grievance to be redressed. If girls under twenty-one years of age who are discharged from the industrial school have no parents or guardian, the trustees shall act as guardians for them, with all the power and authority conferred by the provisions of chapter one hundred and forty-five.

For further provision as to guardianship, see 1915, 113, Gen., § 3, p. 226, infra.

Transfers to hospital cottages, etc. 1899, 158.

Section 46. [*Superseded in part by 1914, 762, § 2, p. 225, infra.*] The state board of insanity may, upon the request of the trustees of the Lyman and industrial schools, transfer from either of said schools to the hospital cottages for children or to the Massachusetts school for the feeble-minded any inmate whose condition would be benefited by such transfer, upon a certificate of a physician that such person is a suitable subject for treatment at either of the last named institutions.

Expenditure for houses, etc., for industrial school. G. S. 75, § 26. P. S. 89, § 48.

Section 47. The trustees may expend any money which may be given for the purpose in erecting houses or other buildings on the land of the commonwealth at Lancaster, for increasing the accommodation of the industrial school, if the plans therefor are first approved by the governor and council.

See 1907, 520, p. 138, supra.

Records of commitments, etc., to be returned to superior court. 1863, 199. P. S. 89, § 52.

Section 48. A judge of probate or a commissioner before whom a child is brought under the provisions of sections seventeen and twenty-five shall make a brief record of his doings, and transmit it and all the papers in the case to the superior court in the county in which such proceedings are had; and the clerk thereof shall file and preserve the same in his office.

See 1906, 413, 489, p. 189, infra.

State board to send to state hospital, when. 1899, 193.

Section 49. The state board of charity may send to the state hospital any juvenile offender in its custody, or, upon the request of the trustees of the Lyman and industrial schools, any juvenile offender in their custody who is in need of hospital treatment. A juvenile offender so transferred shall be subject to the regulations of the state hospital and shall be in the exclusive custody of the superintendent and trustees thereof until they determine that he has sufficiently recovered to be returned to the place of his former custody. Thereupon, they shall so certify upon the warrant of commitment and give notice

in writing to the state board of charity, which, upon receipt of such notice, shall cause such juvenile offender to be returned to their custody, or, if he was originally transferred from the Lyman or industrial school, to be returned to the custody of the trustees of those institutions, there to remain pursuant to the original sentence in each case.

State board annually to visit indentured children. 1870, 359, § 2. 1871, 370, § 2. 1879, 291, § 3. P. S. 89, § 53.

Section 50. The state board of charity shall at least once a year visit all children who are maintained wholly or in part by the commonwealth, or who have been indentured or placed in charge of a person by any state institution, board or officer of the commonwealth, or under any provision hereof, and all minor children who are supported at the expense of any city or town. It shall inquire into the condition of such children, and make such other investigations relative thereto as it may think fit; and for this purpose it may have private interviews with such children at any time.

For act relating to correspondence between inmates of institutions and the State Board, see 1906, 341, p. 137, supra.

— may cancel indentures, or transfer child, when. 1870, 359, § 3. 1871, 370, § 2. 1879, 291, § 3. P. S. 89, § 54.

Section 51. If the state board of charity is of opinion that a child so indentured or placed in charge of a person cannot, with advantage to the child, be longer so held, it may cancel the indenture or contract by giving notice as provided in section thirty-nine, and return such child to the institution from which he was indentured or taken; or, on application of such institution, the state board may transfer him to any other institution maintained by the commonwealth for the support or reformation of children, indenture him to some other person or otherwise provide for his maintenance during minority, or for a less time. The cancellation of the indenture or contract shall not operate as a discharge of the minor under any sentence or order of commitment.

— to be notified before child is

Section 52. A child shall not be indentured, adopted or placed in charge of any person from a state institution

indentured, etc. 1870, 359, § 4. 1879, 291, § 3. P. S. 89, § 55.

until notice of an application therefor has been given to the state board of charity and until its report in writing, made after investigation into the propriety thereof, has been filed with such institution. All applications for the release or discharge of any children so indentured or placed in charge shall in like manner be given to the state board for its report.

State board to procure adoption of children, etc. 1870, 359, § 5. 1879, 291, § 3. P. S. 89, § 56.

Section 53. The state board of charity shall seek out suitable persons who are willing to adopt, take charge of, educate and maintain children arrested for offences, committed to a state institution, abandoned or neglected, and give notice thereof to the institutions, boards, officers or persons having authority so to dispose of said children.

Aid for destitute girls. Res. 1863, 56. P. S. 89, § 57.

Section 54. The trustees may annually pay, out of the amount appropriated for the current expenses of the industrial school, not more than two hundred dollars in aiding destitute and deserving girls who have left the school and are out of employment.

ADDITIONAL LEGISLATION.

[1906, 407.]

An Act to authorize the treasurer and receiver general to receive and invest the trust funds of the trustees of the Lyman and industrial schools.

The treasurer and receiver general to receive, etc., certain trust funds.

Section 1. The treasurer and receiver general is hereby authorized to receive from the treasurer of the trustees of the Lyman and the industrial schools the principal of the various trust funds now held by, or hereafter conveyed or bequeathed to the said trustees for the use of any institution of which the said board is or shall be trustees, and upon the request of said trustees he shall expend the income of all such funds, and such part of the principal as may be subject to the control of said trustees, in such manner as the trustees may direct, subject to any condition affecting the administration thereof. The said funds shall always be invested safely by the treasurer and

receiver general, and he shall be held responsible for the faithful management of the same, in the same manner as for other funds held by him in his official capacity.

Funds to be held in same form as now invested.

Section 2. The treasurer and receiver general is hereby authorized to receive and hold said trust funds in the form in which the same are now invested, and with the approval of the governor and council he may sell from time to time such of the securities as he may deem it best to sell, re-investing the proceeds in securities which are legal investments for the sinking funds of the commonwealth.

Bills for expenditure to be filed with the auditor.

Section 3. Bills for the expenditure of the income or any portion of the principal thereof, as provided for by the various trusts, and requests for payments thereof, shall be filed with the auditor of the commonwealth, who shall certify the same to the governor and council in accordance with existing laws.

Limit of time for paying over funds, etc.

Section 4. All such trust funds now existing shall be paid over by the said trustees to the treasurer and receiver general on or before the first day of June in the year nineteen hundred and six.

When to take effect.

Section 5. Except as otherwise provided herein this act shall take effect upon its passage. [*Approved May 21, 1906.*

[1906, 413.]

An Act relative to delinquent children.

[*Superseded in part by 1906, 489. See also 1907, 158; 1908, 639, infra.*]

The word "court" defined.

Section 1. The word "court", whenever used in this act, shall be construed to mean a police, district or municipal court, or a trial justice.

The words "probation officer" defined.

The words "probation officer" shall be construed to mean a probation officer or assistant probation officer of the court having jurisdiction of the pending case.

The term "delinquent child" defined.

The term "delinquent child" shall be construed to mean any boy or girl between the ages of seven and seventeen years, who violates any city ordinance or town by-law, or

commits an offence not punishable by death or by imprisonment for life.

The words "wayward child" defined.

The words "wayward child" shall be construed to mean a boy or girl between seven and seventeen years of age who habitually associates with vicious or immoral persons, or who is growing up in circumstances exposing him or her to lead an immoral, vicious or criminal life.

The intent of the act construed.

Section 2. This act shall be liberally construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance. Proceedings against children under this act shall not be deemed to be criminal proceedings.

Complaint, etc.

Section 3. If complaint is made to any court that a boy or girl between the ages of seven and seventeen years is a wayward child or a delinquent child, said court shall examine on oath the complainant and the witnesses, if any, produced by him, and shall reduce the complaint to writing, and cause it to be subscribed by the complainant.

Summons to issue, etc.

If said child is under fourteen years of age, said court shall first issue a summons requiring it to appear before such court at the time and place named therein, and such summons shall be issued in all other cases, instead of a warrant, unless, in the judgment of the court, there is reason to believe that he or she will not appear upon a summons, in which case, or in any case in which a child has been summoned as aforesaid and did not appear, said court may issue a warrant reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to take such child and bring it before said court to be dealt with according to law, and to summon such witnesses as shall be named therein to appear and give evidence at the examination.

Commitment, etc.

A child under fourteen years of age shall not be committed to a lock-up, police station or house of detention,

to a jail or house of correction, to the state farm, or the house of correction at Deer Island in the city of Boston, pending an examination, in default of bail, or for the non-payment of a fine, except as provided in sections five and nine, or upon conviction of any offence not punishable by death or imprisonment for life: *provided*, that a boy twelve years of age or over, arrested in the act of violating a law of the commonwealth, or on a warrant, may, in the discretion of the arresting officer, be committed to a lock-up, police station or house of detention. Proviso.

Whenever a child under seventeen years of age has been committed to a lock-up, police station or house of detention the probation officer and at least one of its parents, and, if there is no parent, then the person with whom such child resides, shall be notified at once of said commitment. The officer of the place of custody in which such child is confined, on the written request of the probation officer, shall release such child to him, unless the officer who made the commitment shall make a written request for his detention. Said probation officer shall notify such child of the time and place of the hearing of its case. Probation officer, etc., to be notified.

SECTION 4. [*Supplemented by 1907, 195, p. 202, infra.*] If a boy or girl is brought before such court upon a warrant, or has been summoned to appear, as provided in the preceding section, a summons shall be issued to at least one of its parents, if either of them is known to reside within the city or town where such child was found, and, if there is no such parent, then to its lawful guardian, if there is one known to be so resident, and if not, then to the person with whom such child resides, if known. Said summons shall require the person upon whom it is served to appear at a time and place stated therein, and show cause why such boy or girl should not be adjudged a wayward or delinquent child, as the case may be. If there is no such parent, guardian or person who can be summoned as aforesaid, the court may appoint a suitable person to act in behalf of such child. Summons to issue to parent of child, etc.

Time for appearance.

If such child is summoned, the time for appearance fixed in the summons to a parent, guardian or other person, as herein provided, shall, when practicable, be the same as that fixed for the appearance of said child.

How summons shall be served.

A summons required by this act, unless service thereof is waived in writing, shall be served by a constable or police officer, by delivering it personally to the person to whom it is addressed, or by leaving it with a person of proper age to receive the same, at the place of residence or business of such person; and said constable or officer shall immediately make return to the court of the time and manner of the service.

Agent of state board of charity to attend proceedings.

If the court shall be of opinion that the interests of an alleged wayward or delinquent child require the attendance, at any proceedings, of an agent of the state board of charity, and shall request such attendance, of said board, an agent thereof shall attend such proceedings, to protect the interests of said child.

Hearings may be adjourned.

Section 5. Hearings upon cases arising under this act may be adjourned from time to time. A child that has been adjudged by the court a wayward or delinquent child may appeal to the superior court, and such child shall, at the time of such adjudication, be notified of its right to

Appeal.

appeal. The appeal, if taken, shall be entered, tried and determined in like manner as appeals from trial justices in criminal cases. The provisions of section thirty-four of chapter two hundred and seventeen, and of section twenty-two of chapter two hundred and nineteen of the Revised Laws, relative to recognizances in cases continued or appealed, shall be applicable in cases arising under this act.

Care of child held for examination.

A child under fourteen years of age, who has been held for examination or trial, or to prosecute an appeal to the superior court, if unable to furnish bail, shall be committed to the care of the state board of charity or of a probation officer. The person to whose care it is so committed shall provide for its safe keeping and for its appearance at its examination or trial, or at the prosecution of its appeal.

A child fourteen or more years of age, so held, if unable to furnish bail shall be so committed to a probation officer, unless the court, upon immediate inquiry, shall be of opinion that, if so committed, such child will not appear at such examination or trial, in which case said child may be committed to jail. May be committed to jail in certain cases.

Said probation officer shall have all the authority, rights and powers, in relation to a child committed to his care under this section, and in relation to a child released to him, as provided in section three, which he would have if he were surety upon the recognizance of such a child. Authority of probation officer.

Section 6. Courts shall designate suitable times for the hearing of cases of juvenile offenders, and wayward or delinquent children, which shall be called the session for children, for which a separate docket and record shall be kept. Said session shall be separate from that for the trial of criminal cases, and as far as practicable shall be held in rooms not used for such trials. No minor shall be allowed to be present at any such hearing unless his presence is necessary, either as a party or as a witness, or, in the opinion of the court, in the interests of justice. Court to designate time for hearings, etc.

Section 7. Every case of a wayward child or a delinquent child shall be investigated by the probation officer, who shall make a report regarding the character of such child, his school record, his home, his surroundings and the previous complaints against him, if any. He shall be present in court at the trial of the case, and furnish the court with such information and assistance as shall be required. At the end of the probation period of a child that has been placed on probation, the officer in whose care it has been shall make a report as to its conduct during such period. Investigation of cases, etc.

Section 8. At the hearing of a complaint against a child the court shall examine such child, and any witnesses that appear, and take such testimony relative to the case as shall be produced. If the allegations against a child are proved, it may be adjudged a wayward or delinquent child, as the case may be. Court to examine cases, etc.

Wayward child may be placed in care of probation officer.

If a child is adjudged a wayward child, the court may place it in the care of a probation officer for such time and upon such conditions as may seem proper, or may deal with it in the manner provided by law for the disposal of the case of a neglected child.

Care of delinquent child, etc.

If a child is adjudged a delinquent child, the court may place the case on file, or may place the child in the care of a probation officer for such time and on such conditions as may seem proper. If it is alleged in the complaint upon which the child is so adjudged, that a law of the commonwealth has been violated, the court may, with the consent of the state board of charity, authorize said board to take and indenture such child, or place it in charge of any person, and if at any time thereafter such child proves unmanageable, to commit such child, if a boy under fifteen years of age, to the Lyman school for boys, or if a girl under seventeen years of age, to the state industrial school for girls, until such child attains the age of twenty-one years. Said board may provide for the maintenance, in whole or in part, of any child so indentured or placed in charge of any person.

May be committed to institution.

The court shall also have power to commit such delinquent child to any institution to which it might be committed upon a conviction for such violation of law, excepting a jail or house of correction, and all laws applicable to a boy or girl committed upon such a conviction shall apply to a delinquent child committed under this section.

Court to make disposition of cases.

Section 9. If a child has been placed in care of a probation officer, as provided in this act, said officer, at any time before the final disposition of the case, may arrest such child without a warrant and take him before the court, or the court may issue a warrant for his arrest. When such child is before the court, it may make any disposition of the case which it might have made before said child was placed on probation, or may continue or extend the period of probation.

If the court shall find that such child has violated the conditions of its probation, it may impose a fine, not exceeding five dollars, and if the fine is not paid at once, in whole or in part, may order that said child stand committed to a jail until the same is paid, but not exceeding five days. Said court shall suspend the execution of said order and continue the probation for such time as it shall fix, unless in the opinion of the court such child will default. Said fine may be paid to the probation officer, whereupon the order for commitment shall be void. If at the end of the period of such suspension the probation officer shall report that said fine is unpaid, the court may extend such period, or place the case on file, or revoke the suspension of the execution of the order of commitment. If the fine, or any part thereof, is paid to the probation officer, he shall give a receipt therefor, shall keep a record of the payment, shall pay the same to the clerk of the court at its next session, and shall keep on file the clerk's receipt therefor.

Penalty for violating conditions, etc.

See 1908, 286, p. 121, infra.

SECTION 10. A disposition of any child under this act, or any evidence given in such case, shall not, in any proceeding, in any court, be lawful or proper evidence against such child for any purpose, excepting in subsequent criminal proceedings, or subsequent cases of delinquency or waywardness against the same child.

Disposition of child not to be admitted as evidence, etc.

SECTION 11. If it shall be alleged in a complaint made under this act that a boy or girl has committed an offence against a law of the commonwealth, or has violated a city ordinance or town by-law, and the court shall be of opinion that his or her welfare, and the interests of the public, require that he or she should be tried for said offence or violation, instead of being dealt with as a delinquent child, the court may, after a hearing on said complaint, order that it be dismissed. Criminal proceedings shall not be begun against any child between the ages

Violation of city ordinance or town by-law, etc.

of seven and fourteen, except for an offence punishable by death or imprisonment for life, unless proceedings against it as a delinquent child have been begun and dismissed as aforesaid.

Delinquent child may be required to make restitution, etc.

Section 12. If, in adjudging a person to be a delinquent child, the court shall find, as an element of such delinquency, that he has committed an act involving liability in a civil action, and such delinquent child shall be placed on probation, as herein provided, the court may require, as a condition thereof, that he shall make restitution or reparation to the injured person, to such an extent and in such sum as the court shall determine. If the payment is not made at once, it shall be made to the probation officer, who shall give a receipt therefor, shall keep a record of the payment, shall pay the money to said injured person, and keep on file his receipt therefor.

See, as to restitution, 1907, 335, p. 215, infra.

Parent of child may be punished, etc.

Section 13. If a boy or girl is adjudged to be a wayward child or a delinquent child, as defined by this act, a parent of such child who is found to have been responsible for such waywardness or delinquency, shall be punished by a fine of not more than fifty dollars, or by imprisonment in jail for not more than six months.

Supervision by state board of charity.

Section 14. [*Amended by 1912, 187, infra.*] The state board of charity shall have authority to supervise the probation work for wayward and delinquent children, and to make such inquiries as it considers necessary in regard to the same, and in its annual report may make such recommendations as it considers advisable for the improvement of methods of dealing with such children.

[1912, 187.]

An Act relative to supervision of probation work for wayward and delinquent children.

1906, 413, § 14, amended.

Section 1. Section fourteen of chapter four hundred and thirteen of the acts of the year nineteen hundred and six is hereby amended by striking out the words "state board of charity", in the first line, and substituting the

words: — commission on probation, — so as to read as follows: — *Section 14.* The commission on probation shall have authority to supervise the probation work for wayward and delinquent children, and to make such inquiries as it considers necessary in regard to the same, and in its annual report may make such recommendations as it considers advisable for the improvement of methods of dealing with such children. Supervision of probation work.

Section 2. This act shall take effect upon its passage. [*Approved March 2, 1912.*

Section 15. All acts and parts of acts inconsistent with this act are hereby repealed. Repeal.

Section 16. This act shall take effect on the first day of September in the year nineteen hundred and six. [*Approved May 24, 1906.* When to take effect.

As to witness fees, see 1907, 158, infra.

[1907, 158.]

An Act to provide for the payment of witness fees, and expenses of officers, in cases of neglected, wayward and delinquent children.

[*See 1906, 413, supra; 1903, 334, p. 112, supra.*]

Section 1. All laws in relation to the payment of witness fees, and to the payment of expenses of officers, in criminal cases, shall apply in cases arising under chapter three hundred and thirty-four of the acts of the year nineteen hundred and three, or under chapter four hundred and thirteen of the acts of the year nineteen hundred and six. The payment of such fees and of such expenses, in cases arising under either of said chapters before the passage of this act, is hereby authorized, confirmed and made valid. Payment of witness fees, etc., in certain cases.

Section 2. This act shall take effect upon its passage. [*Approved March 1, 1907.*

[1906, 489.]

AN ACT TO ESTABLISH THE BOSTON JUVENILE COURT.

Boston Juvenile Court established.

SECTION 1. A court is hereby established in the city of Boston, to be known as the Boston Juvenile Court.

Justices, etc., appointment, etc.

SECTION 2. Said court shall consist of one justice and two special justices, who shall be appointed by the governor, with the advice and consent of the council. There shall be a clerk of said court who shall also be appointed by the governor, with the advice and consent of the council, for a term of five years. In case of the absence, death or removal of the clerk, the court may appoint a clerk pro tempore, who shall act until the clerk resumes his duties, or until the vacancy is filled. The said court shall have a proper seal, and all processes issuing therefrom shall be under the seal of the court, shall be signed by the clerk, and shall bear the teste of the justice of the court, unless his office is vacant, in which case it shall bear the teste of a special justice of the court.

Clerk, appointment, etc.

Seal.

Salaries.

SECTION 3. The justice of the said court shall be paid a salary of three thousand dollars per annum. The special justices shall be paid for each day's actual service at the same rate as the rate by the day of the salary of the justice of the court; but compensation for services in excess of thirty days in any one calendar year shall be deducted by the county treasurer from the salary of the justice of the court. The clerk shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid by the county of Suffolk, in the same manner as the salaries of the justices, special justices and clerks of the municipal court of said city are now paid. Suitable rooms for the sittings of the court and for the officers thereof shall be provided in the Suffolk county court house.

See, as to clerical assistance, 1908, 458.

Jurisdiction, authority, etc.

SECTION 4. All the jurisdiction, authority and powers vested in the municipal court of the city of Boston or the

justices thereof, or which are conferred upon municipal courts by chapter four hundred and thirteen of the acts of the year nineteen hundred and six, which involve the trial, sentencing, commitment or other disposal of a child under the age of seventeen years, or the receiving of complaints and the issuing of summonses, warrants or other processes in relation thereto, or which relate to the care of neglected children, under chapter three hundred and thirty-four of the acts of the year nineteen hundred and three, and acts in amendment thereof or in addition thereto, are hereby transferred to, and vested in, the court hereby established, and in the justice and special justices thereof; and the said court shall have jurisdiction over such other matters as may come before it under this act. All the provisions of law which relate to police, district or municipal courts, to the justices, special justices and clerks thereof, or to the rights, duties and liabilities of parties to proceedings therein, shall, so far as they may be appropriate, apply to said court, its justice, special justices and clerk, and to the parties to proceedings therein, except as herein otherwise provided. The court hereby established may continue from time to time the hearing in respect to any child given under the provisions of this act, and may commit such child to any institution to which a district or municipal court in the city of Boston is now, or may hereafter be, authorized to commit such child, or may impose any penalty which said courts are authorized to impose. The court may from time to time make general rules in reference to, and provide forms of, procedure.

See, as to jurisdiction, 1907, 137, 411, infra.

Cases to be heard in chambers, etc.

SECTION 5. So far as possible the court shall hear all cases in chambers; and all persons, whose presence, in the opinion of the court, is not necessary, shall be excluded from the room.

Probation officers, appointment, etc.

SECTION 6. The justice of the court hereby established shall appoint two probation officers, each of whom shall

hold office during the pleasure of the said justice, and shall have general authority to serve such process as may be directed to either of them by the court. The provisions of chapter two hundred and seventeen of the Revised Laws, and of all other statutes now or hereafter applicable to probation officers connected with courts in the city of Boston, shall, so far as they may be appropriate, apply to said probation officers, except as herein otherwise provided. The justice may also appoint as many deputy probation officers, without salary, as he may deem desirable. They shall assist probation officers in such ways as the court may direct in making investigations of cases of children against whom complaints have been made, and in the care of children who have been placed on probation.

Proceeding in order to avoid incarceration, etc.

Section 7. In case a warrant is issued by the court for a child's arrest, or in case a child between the ages of seven and seventeen years is arrested without a warrant, as provided by law, in order to avoid the incarceration of the child, if practicable, the officer to whom said warrant is delivered, or who has arrested the child without a warrant, as the case may be, may, unless the justice or magistrate of the court issuing such warrant has otherwise directed in the warrant, accept the written promise of the parent, guardian or person with whom it is stated that said child resides, or any other reputable person, to be responsible for the presence of said child in court at the time and place when the child is to appear, and at any other time to which the hearing in the case may be continued or adjourned by the court. Nothing herein contained shall be construed to prevent the admitting of said child to bail, in accordance with sections twenty-nine and thirty of chapter two hundred and seventeen of the Revised Laws.

See 1908, 286, infra.

Superintendent of schools to furnish information, etc.

Section 8. It shall be the duty of the superintendent of the Boston public schools, and of any teacher therein,

and of the person, society or corporation in charge of any private school, and of the teachers therein, to furnish to the said court from time to time any information and reports requested by the justice thereof relating to the attendance, conduct and standing of any pupil under his, her or its charge, if said pupil is at the time under the charge of the court hereby established.

Repeal. SECTION 9. All acts and parts of acts inconsistent herewith are hereby repealed.

When to take effect. SECTION 10. This act shall take effect upon its passage, so far as the appointing, commissioning and qualifying of the justice, special justices and clerk of the court hereby established are concerned; and it shall be in full force and effect, and the authority and jurisdiction of the court hereby established and of the probation officers thereof shall begin, on the first day of September in the year nineteen hundred and six, except that the municipal court of the city of Boston shall have power to dispose of all cases of juvenile offenders or neglected children which may be pending before it when this act takes full effect. [*Approved June 15, 1906.*

[1907, 137.]

AN ACT TO DEFINE MORE CLEARLY THE JURISDICTION OF THE BOSTON JUVENILE COURT.

[*See 1906, 489, supra.*]

Jurisdiction of the Boston juvenile court. SECTION 1. Nothing contained in chapter four hundred and eighty-nine of the acts of the year nineteen hundred and six, being "An Act to establish a juvenile court", shall be construed to transfer from or prevent vesting in any court or justices except the municipal court of the city of Boston and the justices thereof, any jurisdiction, authority or powers whatsoever.

SECTION 2. This act shall take effect upon its passage. [*Approved February 21, 1907.*

[1907, 411.]

AN ACT TO PROVIDE FOR THE CASES OF CHILDREN IN THE BOSTON JUVENILE COURT WHO BECOME SEVENTEEN YEARS OF AGE PENDING ADJUDICATION AND DURING CONTINUANCES AND PROBATION.

[*See 1906, 489, supra.*]

Powers of Boston juvenile court in certain cases.

SECTION 1. The Boston juvenile court shall have the same powers and authority over all children who become seventeen years of age pending adjudication on their cases, or during continuances or probation, or after their cases have been placed on file, which it would have had prior to their becoming seventeen years of age: *provided*, that nothing herein contained shall be construed to authorize the commitment of any child over seventeen years of age to the state industrial school for girls at Lancaster, and that nothing herein contained shall give said court any power or authority over said children after they become eighteen years of age.

Proviso.

SECTION 2. This act shall take effect upon its passage. [*Approved May 14, 1907.*

[1907, 195.]

AN ACT TO PROVIDE FOR SECURING THE ATTENDANCE AT COURT OF PARENTS AND OTHERS IN CASES OF JUVENILE OFFENDERS AND OTHER MINORS.

[*See 1906, 413, supra; 1903, 334, p. 112, supra.*]

The court, etc., may summon the parent or guardian of a minor child in certain cases.

SECTION 1. If, at any time during the pendency of any case before any court or magistrate against a child under seventeen years of age, whether it be pending adjudication or during continuances or probation, or after the case has been taken from the files, the court or magistrate desires the presence of any parent or guardian of said child, or any person with whom said child resides, the court or magistrate may summon such parent, guardian or person,

in the manner provided in section four of chapter four hundred and thirteen of the acts of the year nineteen hundred and six.

Capias may be issued to compel attendance.

SECTION 2. If any person to whom a summons is issued under the preceding section or under section four of said chapter four hundred and thirteen, or under section one of chapter three hundred and thirty-four of the acts of the year nineteen hundred and three, fails to appear in response to such summons, the court or magistrate which issued the summons may issue a capias to compel the attendance of such person, and such capias shall be issued and served in the same manner as a capias to compel the attendance of witnesses who have failed to appear on a subpœna issued in behalf of the commonwealth in a criminal case. [*Approved March 12, 1907.*

[1907, 362.]

AN ACT RELATIVE TO THE ARREST AND DETENTION OF BOYS AND GIRLS WHO HAVE ESCAPED OR HAVE BEEN RELEASED FROM THE LYMAN SCHOOL FOR BOYS OR THE STATE INDUSTRIAL SCHOOL FOR GIRLS.

Arrest and detention of boys and girls escaped or released from certain state institutions.

SECTION 1. A boy who has been committed to the Lyman school for boys or a girl who has been committed to the state industrial school for girls, and who has escaped therefrom, may be arrested without a warrant by a sheriff, deputy sheriff, constable or police officer and may be kept in custody in a suitable place and there detained until such boy or girl may be removed to the school from which he or she escaped or was released.

SECTION 2. This act shall take effect upon its passage. [*Approved May 3, 1907.*

For act extending the provisions of the foregoing statute to inmates of the Industrial School for Boys, see 1915, 113, Gen., p. 226, infra.

[1908, 286.]

AN ACT RELATIVE TO THE RELEASE OF CERTAIN MINORS AFTER ARREST.

[*See 1906, 489, § 7, supra.*]

Release of certain minors after arrest.

SECTION 1. Any child between the ages of seven and seventeen who has been arrested with or without a warrant may, unless the justice or magistrate of the court issuing the warrant has otherwise directed in the warrant, be released by the officer to whom the warrant is delivered, upon the written promise of the parent, guardian or any other reputable person, to be responsible for the appearance of said child in court at the time and place when the child is to appear, and at any other time to which the hearing in the case may be continued or adjourned by the court.

SECTION 2. This act shall take effect upon its passage. [*Approved March 25, 1908.*

[1908, 465.]

AN ACT RELATIVE TO THE PROBATION SERVICE.

Commission on probation, appointment, terms, etc.

SECTION 1. The chief justice of the superior court shall appoint five persons, one or more of whom may be justices of the courts, to be a Commission on Probation. Their terms of office shall be so designated at the time of appointment that the term of one member shall expire on the second Wednesday of July in each of the five years following; and in each year hereafter the said chief justice shall in like manner appoint one member for a term of five years. A vacancy in the commission shall be filled in the same manner for the unexpired term. Any member of the commission may be removed by the chief justice. The commission shall appoint a deputy commissioner, who shall be its executive officer and shall hold office during its pleasure. He shall perform such duties as may be required of him by the commission; and shall receive such salary

Vacancy.

Deputy commissioner, appointment, etc.

as it shall determine. The commission shall be provided with suitable office accommodations, in the Suffolk county court house or elsewhere, and may employ such assistance as is needed to perform its work. The members of the commission shall receive no compensation for services hereunder, but they and the deputy commissioner shall be allowed the necessary expenses incurred in the performance of their official duties. The expense incurred under this section shall not exceed five thousand dollars in any one year, and shall be paid from the treasury of the commonwealth, and the bills therefor shall be approved and paid in the same manner in which other bills against the commonwealth are approved and paid.

Powers and duties.

SECTION 2. The commission shall prescribe the form of all records and of all reports from probation officers, and shall make rules for the registration of reports and for the exchange of information between the courts. It shall provide for such organization and co-operation of the probation officers in the several courts as may seem advisable. To promote co-ordination in the probation work of the courts, the commission may call a conference of any or all of the justices of the municipal, police and district courts and the Boston juvenile court, or a conference of any or all of the probation officers and assistant probation officers; and a member of the commission shall preside over all such conferences. With the approval of the commission the prison commissioners, or the state board of charity, may hold a conference with any or all of the probation officers for the purpose of securing the co-operation of such officers in keeping trace of the whereabouts of persons who are at liberty from the prisons of the commonwealth. The travelling expenses of said justices or officers in attending any conference herein named, shall be paid as the other expenses of the respective courts are paid.

Detailed reports to be made of the

SECTION 3. Every probation officer, except where there is more than one probation officer in any court, then the

probation work, etc.

senior probation officer, shall transmit to the commission in such form and at such times as it shall require, detailed reports regarding the work of probation in the court; and under the direction of the commission a record shall be kept of all such cases as the commission may require for the information of the justices and probation officers. It shall be the duty of police officials to co-operate with the commission and the probation officers in obtaining and reporting information concerning persons on probation. The information so obtained and recorded shall be accessible at all times to the justices and officers of the courts, to the police commissioner of the city of Boston, and to all chiefs of police and city marshals. The prison commissioners and the state board of charity shall at all times give to the commission and the probation officers such information as may be obtained from the records concerning prisoners under sentence or who have been released.

Annual report.

Section 4. In the first week of January annually the commission shall transmit to the general court a report of the probation work of the courts for the year ending on the thirtieth day of September preceding. The report shall include such information as the commission may consider to be useful, with any suggestions or recommendations that it desires to make. Five hundred copies of the report shall be printed for the special use of the commission.

Not to affect certain authority of the courts.

Section 5. The provisions of this act shall not affect the authority of the courts to require the keeping by their probation officers of probation records in addition to those necessary in order to conform to forms of records and reports prescribed by the commission. The authority of the courts to approve expenses and disbursements relating to the probation system shall not be affected by any provision of this act.

Repeal.

Section 6. Sections eighty-five to ninety, both inclusive, of chapter two hundred and seventeen of the Revised Laws, and all acts and parts of acts inconsistent herewith

are hereby repealed. But nothing herein shall be construed to repeal or affect the provisions of chapter four hundred and thirteen of the acts of the year nineteen hundred and six.

When to take effect.

Section 7. The first section of this act shall take effect on the first day of July, and all the other sections on the first day of October, in the year nineteen hundred and eight. [*Approved April 28, 1908.*

[1908, 637.]

An Act to authorize the appointment by certain courts of probation officers for children.

Appointment by certain courts of probation officers for children.

Section 1. The justice of each police, district and municipal court included in classes B, C, D, E and F, as said classes are defined by chapter four hundred and fifty-three of the acts of the year nineteen hundred and four and acts in amendment thereof, if not now authorized to appoint a probation officer for wayward and delinquent children, may appoint such officer, who shall hold office during the pleasure of the court which makes the appointment and shall receive from the county such salary as the court, with the approval of the county commissioners, shall fix. The justice of each police, district and municipal court not included in the said classes, excepting the municipal court of the city of Boston and the central district court of Worcester, may appoint such an officer who shall serve without compensation. Salaried probation officers appointed as herein provided shall have, and, by direction of the court, unpaid officers may have, in cases of such children and of juvenile offenders, the power and authority of probation officers. But no such officer shall be appointed until the commission on probation, established by chapter four hundred and sixty-five of the acts of the present year, shall certify that his appointment is necessary.

Deputy probation officers, ap-

Section 2. The justice of every police, district and municipal court, excepting the municipal court of the city

pointment, etc.

of Boston, may appoint one or more deputy probation officers without compensation. They shall assist probation officers for wayward and delinquent children in such ways as the court shall direct.

Section 3. This act shall take effect upon its passage. [*Approved June 13, 1908.*

[1907, 224.]

An Act relative to the age and schooling certificates required for minors committed to the Lyman school for boys and the state industrial school for girls.

R. L. 106, § 31, etc., amended.

Section 1. Section thirty-one of chapter one hundred and six of the Revised Laws, as amended by chapter four hundred and thirty-two of the acts of the year nineteen hundred and four, and by chapter two hundred and thirteen of the acts of the year nineteen hundred and five, is hereby further amended by adding at the end thereof the following: — The certificate of the superintendent of the Lyman school for boys or of the state industrial school for girls shall be sufficient evidence as to the age and ability to read at sight and to write legibly simple sentences in the English language, of a child who has been an inmate of such school, — so as to read as follows: — *Section 31.* An age or schooling certificate shall not be approved unless satisfactory evidence is furnished by a certificate of birth or baptism of such minor, or by the register of birth of such minor with a city or town clerk, that such minor is of the age stated in the certificate, except that other evidence, under oath, may be accepted in case the superintendent or person authorized by the school committee, as provided in the preceding section, decides that neither the certificate of birth or baptism, nor the register of birth is available for the purpose. The certificate of the superintendent of the Lyman school for boys or of the state industrial school for girls shall be sufficient evidence as to the age and ability to read at sight and to write

Approval of age and schooling certificates of minors.

legibly simple sentences in the English language, of a child who has been an inmate of such school.

Section 2. This act shall take effect upon its passage. [*Approved March 20, 1907.*

[1908, 639.]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE INDUSTRIAL SCHOOL FOR BOYS.

Trustees of Industrial School for Boys, appointment, etc.

Section 1. The governor, with the advice and consent of the council, shall, during the month of June of the current year, appoint a board of seven trustees, two of whom shall be women, in whom and in their successors shall be vested the government and management of a school for the industrial training and for the instruction and reformatory treatment of boys committed thereto. Said institution shall be known as the Industrial School for Boys. The terms of office of the trustees shall begin on the first day of July following their appointment. Of the trustees first appointed under this act two shall hold office for two years, two for three years, two for four years and one for five years, or until their successors are appointed; and the governor shall appoint annually thereafter, in the month of June, successors of the trustees whose terms are about to expire, and such successors shall hold office for five years from the first day of July next ensuing. Said board shall be a corporation for the purpose of taking, holding and investing in trust for the commonwealth any grant or devise of land, or any gift or bequest of money or other personal property made for the use of said school. Said trustees are hereby authorized to purchase, in behalf of the commonwealth, real estate, with such personal property as may be upon the same, as a site for said school.

May erect and repair buildings, make contracts, employ agents, etc.

Section 2. With the approval of the state board of charity the trustees may erect new buildings, and may alter and repair buildings upon the property purchased. They may also equip and furnish buildings so erected,

altered or repaired. Said trustees shall have authority to make all contracts and employ all agents necessary to carry out the provisions of this act. Their reasonable expenses incurred in the performance of their duties under the first two sections of this act shall be paid from the appropriation for carrying out the provisions hereof. For the purpose of carrying out the provisions of the first two sections of this act the trustees of said school may expend a sum not exceeding eighty-five thousand dollars, but no expenditure shall be made under said sections except for the purchase of a site for said school and for plans, until said state Board shall certify that in its opinion the cost of purchasing land and buildings, as aforesaid, of altering and repairing buildings upon the land purchased, of erecting and making ready for occupancy any new building or buildings under the provisions of this section, and of furnishing and equipping any building erected, altered or repaired as aforesaid, will not exceed eighty-five thousand dollars, and the total expenditures made and liabilities incurred under the provisions of said sections shall not exceed that amount.

When buildings are ready for occupancy governor to issue proclamation.

Section 3. When the buildings are ready for occupancy the trustees shall notify the governor, who shall thereupon issue his proclamation establishing said school; and thereafter, if it shall appear to any police, district or municipal court or trial justice that any boy not less than fifteen years of age who has been adjudged to be a delinquent child, or any boy not less than fifteen nor more than eighteen years of age who has been convicted of any offence punishable by imprisonment other than imprisonment for life, is a suitable subject for said school, and that his welfare and the good of society require that he should be sent thereto for industrial training, for instruction and for reformatory treatment, the court may issue a warrant of commitment to said school. So far as they are applicable, except as herein otherwise provided, all provisions of law in relation to commitments to the Lyman school for boys shall extend to commitments to said industrial

Commitments.

school. A boy committed to said school as aforesaid may be held therein until he attains the age of twenty-one years, and the custody of such boy shall be in said trustees until that age is attained, excepting during such time as he shall be absent from said school in the Massachusetts reformatory. Said trustees may release from said school upon probation any inmate thereof, and may recall him from probation. They may employ such agents as may be required for the care of such probationers.

Inmates may be released upon probation, etc.

Section 4. Upon the request of the trustees of the Lyman school for boys, the trustees of said industrial school may transfer to it any inmate of said Lyman school, and may transfer any inmate of said industrial school to said Lyman school with the consent of its trustees. The trustees for children of the city of Boston may transfer to said industrial school any boy committed to the Suffolk school for boys after the passage of this act. Upon application of the trustees, the prison commissioners may remove to the Massachusetts reformatory any inmate of said industrial school, and upon a further application may return him to said school. A boy so removed to said reformatory shall be subject to all laws relating to the other inmates thereof until he is returned to said school. With the consent of the trustees, the prison commissioners may remove to said industrial school any boy under the age of seventeen years who is sentenced to the Massachusetts reformatory. When a boy is removed or returned under this act, all mittimuses, processes and other official papers, or copies thereof, by which he is held, shall be removed or returned with him; and he may be held in the institution to which he is removed or returned until the expiration of the term for which he was originally committed. After the establishment of said industrial school, no boy who is more than fifteen years of age shall be committed to the Suffolk school for boys.

— of certain institutions may be transferred, etc.

Section 5. The trustees shall have general charge of said school and of all its interests. They shall, from time to time, establish rules, regulations and by-laws for its

Trustees to establish rules, regulations, etc.

government, for the direction of its officers and the instruction and discipline of its inmates; and they shall see that its affairs are conducted according to law and to said rules, regulations and by-laws. They shall appoint a superintendent who shall be the executive officer of the school and, subject to the approval of the governor and council, they shall fix his compensation.

Superintendent.

Powers and duties, etc., of trustees and state board of charity.

Section 6. Said trustees and the state board of charity shall have the same rights and powers, be charged with the same duties and be subject to the same responsibilities in regard to said industrial school and to the officers and inmates thereof as by law are given to or imposed upon said board and upon the trustees of the Lyman and industrial schools in regard to the Lyman school for boys and its officers and inmates. Sections six, seven and nine of chapter eighty-six of the Revised Laws shall apply to the superintendent of said school; and all other laws in relation to the duties, powers and obligations of officers of said Lyman school, so far as they may be applicable, shall extend to officers of the said industrial school.

Certain provisions of law to apply.

Prison and Hospital Loan.

Section 7. For the purpose of meeting the expenses incurred under the provisions of this act, the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding eighty-five thousand dollars, for terms not exceeding thirty years. Such scrip or certificates of indebtedness shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum, payable semi-annually on the first days of May and November. They shall be designated on the face thereof, Prison and Hospital Loan, shall be countersigned by the governor, shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest thereof shall be paid at the times specified therein in gold coin of the United States or its equivalent. Such scrip or certificates of indebtedness shall be disposed of at public

auction, or in such other manner, and at such times and prices, and in such amounts, and shall bear such rates of interest, not exceeding four per cent per annum, as shall be deemed best for the commonwealth, but none of the same shall be sold at less than the par value thereof. The sinking fund established by chapter three hundred and ninety-one of the acts of the year eighteen hundred and seventy-four, known as the Prison and Hospital Loan Sinking Fund, shall also be maintained for the purpose of extinguishing bonds issued under the authority of this act; and the treasurer and receiver general shall apportion thereto from year to year an amount sufficient with the accumulations of said fund to extinguish at maturity the debt incurred by the issue of said bonds. The amount necessary to meet the annual sinking fund requirements and to pay the interest on said bonds shall be raised by taxation from year to year.

Sinking fund, etc.

Section 8. This act shall take effect upon its passage. [*Approved June 13, 1908.*

[1909, 472.]

An Act relative to transfers and commitments to the industrial school for boys.

Section 1. The state board of charity shall have the right to transfer boys in its custody between the ages of fifteen and eighteen years to the industrial school for boys; but no boys shall be transferred to said school by the trustees of any institution without the consent of the trustees of the industrial school for boys.

Transfer of boys in the custody of the state board of charity, etc.

Section 2. [*Amended by 1911, 605; 1914, 207, infra.*] For a period of two years after the school is declared opened its trustees may notify the courts of commitment when the school is full, and no boys shall thereafter, within this period, be committed except with the consent of the trustees; but the courts of commitment shall have during this time the same right to commit boys over fifteen years of age to the Suffolk School for Boys as existed before the said industrial school was declared open. [*Approved June 4, 1909.*

Courts of commitment to be notified when school is full, etc.

[1911, 605.]

AN ACT RELATIVE TO COMMITMENTS TO THE INDUSTRIAL SCHOOL FOR BOYS.

[*Amended by 1914, 207, infra.*]

1909, 472, § 2, amended.

Courts of commitment to be notified when school is full, etc.

SECTION 1. Chapter four hundred and seventy-two of the acts of the year nineteen hundred and nine is hereby amended by striking out section two and inserting in place thereof the following: — *Section 2.* Until December thirty-first, nineteen hundred and thirteen, the trustees of the industrial school for boys may notify the courts of commitment when the school is full, and no boys shall thereafter, within the said period, be committed, except with the consent of the trustees; but the courts of commitment shall have during that time the same right to commit boys over fifteen years of age to the Suffolk school for boys which existed before August first, nineteen hundred and nine, when the industrial school for boys was declared open.

SECTION 2. This act shall take effect upon its passage. [*Approved June 30, 1911.*

[1914, 207.]

AN ACT RELATIVE TO COMMITMENTS TO THE INDUSTRIAL SCHOOL FOR BOYS.

1909, 472, § 2, amended.

SECTION 1. Section two of chapter four hundred and seventy-two of the acts of the year nineteen hundred and nine, as amended by chapter six hundred and five of the acts of the year nineteen hundred and eleven, is hereby further amended by striking out the word "thirteen", in the second line, and inserting in place thereof the word: — sixteen, — so as to read as follows: — *Section 2.* Until December thirty-first, nineteen hundred and sixteen, the trustees of the industrial school for boys may notify the courts of commitment when the school is full, and no boys shall thereafter, within the said period, be committed, except with the consent of the trustees; but the courts of commitment shall have during that time the same right to commit boys over fifteen years of age to the Suffolk school for boys which existed before August first, nineteen hundred and nine, when the industrial school for boys was declared opened.

Courts of commitment to be notified when school is full, etc.

SECTION 2. This act shall take effect upon its passage. [*Approved March 19, 1914.*

[1907, 335.]

AN ACT TO PROVIDE FOR THE MAKING OF RESTITUTION OR REPARATION IN CERTAIN CASES.

Restitution or reparation, payment to be made to probation officer in certain cases.

If a person is placed on probation upon condition that he shall make restitution or reparation to the person injured by him in the commission of his offence, and payment is not made at once, the court may order that it shall be made to the probation officer, who shall give receipts for all payments made to him, shall keep a record of the same, shall pay the money to the person injured and keep his receipt therefor, and shall notify the clerk of the court whenever the full amount of the money is received or paid in accordance with such order or with any modification thereof. [*Approved April 24, 1907.*

[1909, 514, § 59.]

AN ACT TO CODIFY THE LAWS RELATING TO LABOR.

Evidence of age. R. L. 106, § 31. 1904, 432. 1905, 213. 1907, 224.

SECTION 59. [*Superseded by 1913, 779, § 17; 1914, 580, infra.*] An age or schooling certificate shall not be approved unless satisfactory evidence is furnished by a certificate of birth or baptism of such minor, or by the register of birth of such minor with a city or town clerk, that such minor is of the age stated in the certificate, except that other evidence, under oath, may be accepted in the case the superintendent or person authorized by the school committee, as provided in the preceding section, decides that neither the certificate of birth or baptism, nor the register of birth is available for the purpose. The certificate of the superintendent of the Lyman school for boys or of the state industrial school for girls given to a child who has been an inmate of such school, shall be sufficient evidence as to the age and ability to read at sight and to write legibly simple sentences in the English language. [*Approved June 18, 1909.*

[1913, 779, § 17.]

AN ACT RELATIVE TO SCHOOL ATTENDANCE AND TO THE EMPLOYMENT OF MINORS.

1909, 514, § 59, amended.

School records.

SECTION 17. [*Amended by 1914, 580, infra.*] Said chapter five hundred and fourteen is hereby further amended by striking out section fifty-nine and inserting in place thereof the following: — *Section 59.* The school record required by section sixteen of this act shall be filled out and signed by the principal or teacher in charge of the school which the child last attended and shall be furnished only to a child who, after due examination and investigation, is found to be entitled thereto. Said school record shall state the grade last completed by such child and the studies pursued in completion thereof. It shall state the number of weeks during which

such child has attended school during the twelve months next preceding the time of application for said school record. It shall also give the name, date of birth, and the residence of the child as shown on the records of the school and the name of the parent, guardian or custodian. In case it is found to be impossible to obtain said school record from the principal or teacher in charge of the school which such child last attended, the requirement of a school record may be waived.

No such school record shall be issued or accepted and no employment certificate shall be granted unless the child possesses the educational qualifications enumerated in section one of chapter forty-four of the Revised Laws as amended by section one of this act.

No such school record shall be issued or accepted unless the child has regularly attended the public schools or other lawfully approved schools for not less than one hundred and thirty days after becoming thirteen years of age: *provided, however,* that the school record may be accepted in the case of a person who has been an attendant at a public day school or other lawfully approved school for a period of not less than seven years, if in the opinion of said superintendent such person is mentally incapable of acquiring the educational qualifications herein prescribed. [*Approved June 13, 1913.*

Proviso.

[1914, 580.]

An Act relative to the issuance of employment certificates to children.

1909, 514, § 59, cl. 3, amended.

Section 1. The third paragraph of section fifty-nine of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine, as amended by section seventeen of chapter seven hundred and seventy-nine of the acts of the year nineteen hundred and thirteen is hereby further amended by adding at the end of said paragraph the words: — and, *provided, further,* that the superintendent of schools shall have authority to suspend this requirement in any case when, in his opinion, the interests of the child will best be served by such suspension, — so that said third paragraph will read as follows: — No such school record shall be issued or accepted unless the child has regularly attended the public schools or other lawfully approved schools for not less than one hundred and thirty days after becoming thirteen years of age: *provided, however,* that the school record may be accepted in the case of a person who has been an attendant at a public day school or other lawfully approved school for a period of not less than seven years, if in the opinion of said superintendent

School records.

Proviso.

such person is mentally incapable of acquiring the educational qualifications herein prescribed; and *provided, further,* that the superintendent of schools shall have authority to suspend this requirement in any case when, in his opinion, the interests of the child will best be served by such suspension. Further proviso.

Section 2. This act shall take effect upon its passage.

(*The foregoing was laid before the governor on the eighteenth day of May, 1914, and after five days it had "the force of a law", as prescribed by the constitution, as it was not returned by him with his objections thereto within that time.*)

[1911, 194.]

An Act relative to trespassing upon lands of the prison camp and hospital and the industrial school for boys.

The provisions of section one hundred and twelve of chapter two hundred and eight of the Revised Laws, and of amendments thereof, providing a penalty for trespassing upon land of certain institutions, are hereby extended and made applicable to the lands of the prison camp and hospital in Rutland, and of the industrial school for boys in Shirley. [*Approved March 25, 1911.* R. L. 208, § 112, made applicable to Prison Camp and the Industrial School for Boys.

[1913, 404.]

An Act relative to trespassing upon the land of certain public institutions.

Section 1. The provisions of section one hundred and twelve of chapter two hundred and eight of the Revised Laws, and of any amendments thereof, providing a penalty for trespassing upon land of certain institutions, are hereby extended and made applicable to the lands of Massachusetts training schools, state charitable institutions and the state farm. R. L. 208, § 112, made applicable to Mass. Training Schools, State Farm and State Charitable Institutions.

Section 2. This act shall take effect upon its passage. [*Approved March 28, 1913.*

[1911, 265.]

AN ACT TO PROHIBIT THE USE OF SOLITARY CONFINEMENT ROOMS OR CELLS IN JUVENILE REFORMATORY SCHOOLS.

Solitary confinement in juvenile reformatory schools prohibited.

SECTION 1. It shall be unlawful for the officers of any juvenile reformatory school to place an inmate in any cell, room or cage in solitary confinement. Whenever restraint or separation from the other inmates is necessary, confinement shall be permitted only in a place where the inmate is under the constant supervision of an officer of the school.

SECTION 2. This act shall take effect upon its passage. [*Approved April 10, 1911.*

[1911, 566.]

AN ACT TO ESTABLISH A BOARD TO BE KNOWN AS TRUSTEES OF MASSACHUSETTS TRAINING SCHOOLS.

Certain boards abolished.

SECTION 1. The board of trustees of the Lyman school for boys at Westborough and the state industrial school for girls at Lancaster and the board of trustees of the industrial school for boys at Shirley are hereby abolished. The

Board of trustees of Massachusetts training schools created.

management, government and care of all reformatory institutions for juveniles, except the reformatory at Concord, supported by the commonwealth for the custody, care and reformation of juvenile offenders shall be vested in a board of nine trustees, two of whom shall be women, to be appointed by the governor with the advice and consent of the council. Of the trustees first appointed under this act seven shall be selected from the members of the boards of trustees abolished by this act. The terms of office of the trustees shall begin on the first day of July following their appointment. Of the trustees first appointed under this act, two shall hold office for one year, two for two years, two for three years, two for four years and one for five years, or until their successors are appointed; and the governor shall appoint annually thereafter, in the month of June, a successor of each trustee

whose term is about to expire, and such successor shall hold office for five years from the first day of July next ensuing. In case of vacancy in the board of trustees caused by resignation, removal from the state or death of a trustee, the governor shall immediately appoint a person to fill the vacancy for the unexpired term. The said board shall be known as Trustees of Massachusetts Training Schools.

Secretary, etc.

SECTION 2. The trustees shall appoint a secretary who shall not be a member of the board but shall be its executive officer and shall hold office during the pleasure of the trustees. He shall receive from the commonwealth a salary to be fixed by the trustees, subject to the approval of the governor and council, and his necessary expenses incurred in the performance of his official duties. He shall be provided with an office in or near the state house. The trustees may appoint a secretary pro tempore, who in the absence of the secretary shall perform his duties. They may appoint one of their members to act as secretary pro tempore. They may expend annually for clerical assistance and office expenses such sums as may be appropriated by the general court.

Rights and powers of trustees.

SECTION 3. The said trustees shall have the same rights and powers, be charged with the same duties, and be subject to the same responsibilities in regard to the said juvenile reformatory institutions and to the officers and inmates thereof as by law are given to or imposed upon the boards of trustees of the Lyman school for boys, the industrial school for girls at Lancaster and the industrial school for boys at Shirley, and shall in all respects succeed to the trusts, rights, powers and duties which by existing laws are vested in or imposed upon the said several boards of trustees abolished by this act.

Repeal.

SECTION 4. All acts and parts of acts inconsistent herewith are hereby repealed.

Time of taking effect.

SECTION 5. This act shall take effect on the first day of July in the year nineteen hundred and eleven. [*Approved June 22, 1911.*

[1911, 595.]

AN ACT TO PROVIDE FOR THE MAINTENANCE AT THE REFORMATORY FOR WOMEN, THE MASSACHUSETTS REFORMATORY AND THE STATE FARM OF DEPARTMENTS FOR DEFECTIVE DELINQUENTS.

Commitments to department for defective delinquents.

SECTION 1. [*Amended by 1913, 796, infra.*] If in any case where a court might by way of final disposition commit an offender to the state prison, the reformatory for women, or any jail or house of correction, or to the Massachusetts reformatory, the state farm, or to the industrial school for boys, the industrial school for girls, the Lyman school, any truant school, or the custody of the state board of charity, for an offence not punishable by death or imprisonment for life, it shall appear that the offender has committed the offence with which he is charged, is mentally defective, and is not a proper subject for the schools for the feeble-minded, or for commitment as an insane person, the court may commit such offender to a department for defective delinquents, hereinafter established, according to the age and sex of the defendant as hereinafter provided.

Violations of regulations, etc.

SECTION 2. If an offender while under commitment to any of the institutions or to the board named in section one of this act persistently violates the regulations of the institution or board in whose custody the offender is, or conducts himself or herself so indecently or immorally, or otherwise so grossly misbehaves as to render himself or herself an unfit subject for retention in said institution or by said board, and it appears that such offender is mentally defective and is not a proper subject for the schools for the feeble-minded, the physician in attendance at such institution or a physician employed by said board shall make a report thereof to the officer in charge of said institution or to the superintendent of minor wards of said board, who shall transmit the same to one of the judges mentioned in section twenty-nine of chapter five hundred and four of the acts of the year nineteen hundred and nine. The judge shall make inquiry into the facts and, if satisfied that the offender is mentally defective and is not a proper subject for the schools for the feeble-minded, shall order the removal of the offender to a department for defective delinquents, hereinafter established, according to the age and sex of the defendant as hereinafter provided.

Certificate of mental defectiveness to be filed, etc.

Section 3. No person shall be committed to a department for defective delinquents under the two preceding sections unless there has been filed with the judge a certificate of the mental defectiveness of such person by two physicians qualified as provided in section thirty-two of chapter five hundred and four of the acts of the year nineteen hundred and nine and acts in amendment thereof or in addition thereto. The fees of the certifying physicians shall be of the amount and paid in the manner provided for like service in said chapter five hundred and four, and acts in amendment thereof and in addition thereto.

Violation of regulations, etc.

Section 4. If an inmate of a school for the feeble-minded persistently violates the regulations of the school, or conducts himself or herself so indecently or immorally, or so grossly misbehaves as to render himself or herself an unfit subject for retention therein, the officer in charge of the school shall make a report thereof to one of the judges mentioned in section twenty-nine of said chapter five hundred and four. The judge shall make inquiry into the facts and, if satisfied that such inmate is not a fit subject for retention in the said school, shall order the removal of the inmate to a department for defective delinquents, hereinafter established, according to the age and sex of the inmate as hereinafter provided.

Departments for defective delinquents, etc.

Section 5. [*Amended by 1913, 796, § 1, infra.*] At the reformatory for women, the Massachusetts reformatory, and the state farm there shall be maintained departments to be termed departments for defective delinquents, for the custody of persons committed thereto under this act. All male persons under twenty-one years of age committed under the provisions of this act shall be committed to the department at the Massachusetts reformatory. Men twenty-one years of age, or over, committed under this act shall be committed to the department at the state farm. All women and girls committed under this act shall be committed to the department at the reformatory for women. All persons committed to the departments for defective delinquents hereby established at the reformatory for women and the Massachusetts reformatory shall be and remain in the custody of the board of prison commissioners until discharged as hereinafter provided, and all persons committed to the department for defective delinquents hereby established at the state farm shall be and remain in the custody of the trustees of the state farm until discharged as hereinafter provided.

Parole, etc.

Section 6. The prison commissioners and the trustees of the state farm may, respectively, parole inmates of the departments for defective delinquents, herein provided for, at their respective institutions, on such conditions as they deem best, and they may at any time recall to the institution any inmate paroled.

Application for discharge, etc.

Section 7. Any person may apply at any time to the justice of the district, police or municipal court in whose jurisdiction a department for defective delinquents is located for the discharge of any inmate of said department. A hearing shall thereupon be held by said justice, of which notice shall be given to the applicant and to the person in charge of the institution where the inmate is confined. If after the hearing the justice shall find that it is probable that the inmate can be suffered at large without serious injury to himself or herself, or damage or injury or annoyance to others, the authorities having custody of said inmate shall parole the inmate. Further action on the application for the inmate's discharge shall be suspended for one year from the date of his or her parole. If at the end of said year the justice of the court where the application was filed shall find that said inmate can be suffered to be permanently at large without serious injury to himself or herself, or damage or injury or annoyance to others, the authorities having custody of said inmate shall discharge the inmate. If, at any time prior to the expiration of said year of parole, the justice of the court where the application was filed shall be satisfied that the best interests of said inmate, or of the public, require the recall of the inmate from parole, he may authorize the authorities having custody of the inmate to recall the inmate from parole. If an application is denied, a new application shall not be made within one year after the date of the order denying the previous application. If a person discharged under the provisions of this section is found by any court to have committed, after his discharge, any offence against the laws of the commonwealth, said court may commit

such person to a department for defective delinquents without the certificate of any physician.

Powers of special justices of courts, etc.

SECTION 8. Any special justice, when holding court at the request of the justice, shall have the powers and perform the duties of the justice under this act. In case of a vacancy in the office of justice and in the case of the illness, absence or other disability of the justice, the special justice who holds the senior commission shall, if no request has been made as aforesaid, have the powers and perform the duties of the justice under this act.

Records of proceedings.

SECTION 9. The record of all proceedings under this act, and all papers in connection therewith, shall be kept as provided in section forty-one of chapter five hundred and four of the acts of the year nineteen hundred and nine, and the same docket shall be used for the proceedings under this act which is used under said section forty-one.

Commitments.

SECTION 10. All commitments under this act shall be made under an order signed by the judge making the order. Orders for commitment may be served by any person qualified to serve any processes issued from the court in which the justice making the commitment sits or, in case of transfers, by any officer or attendant of the institution from which the transfer is being made. The officer or other person serving such order shall make return of service on an attested copy of the order.

Expenses.

SECTION 11. All the expenses attending all proceedings under this act shall be allowed, certified, and paid in the manner provided in section forty-nine of chapter five hundred and four of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto.

Time of taking effect.

SECTION 12. [*Amended by 1913, 796, § 2, infra.*] This act shall take effect when the departments named in section five are ready for occupancy. The prison commissioners and the trustees of the state farm shall notify the governor when said departments are in a suitable condition to receive inmates; and the governor may then issue his proclamation establishing such departments as places for the custody of defective delinquents. [*Approved June 27, 1911.*

[1913, 796.]

AN ACT RELATIVE TO DEPARTMENTS FOR DEFECTIVE DELINQUENTS.

1911, 595, § 5, amended.

SECTION 1. Chapter five hundred and ninety-five of the acts of the year nineteen hundred and eleven is hereby amended by striking out section five and inserting in place thereof the following: — *Section 5.* At the reformatory for women, the Massachusetts reformatory, the state farm or such other place or places as may be approved by the governor and council, there may be maintained departments to be termed departments for defective delinquents, for the custody of persons committed thereto under this act. All male persons committed under the provisions of this act shall be committed to the department for male defective delinquents. All women and girls committed under this act shall be committed to the department for defective delinquents for women. All persons committed to the departments for defective delinquents hereby established shall be and remain in the custody of the board of prison commissioners until discharged as hereinafter provided and all persons committed to the department for defective delinquents, if established at the state farm, shall be and remain in the custody of the trustees of the state farm until discharged as hereinafter provided.

Departments for defective delinquents may be established, etc.

1911, 595, § 12, amended.

SECTION 2. Section twelve of said chapter five hundred and ninety-five is hereby amended by inserting after the word "when", in the first line, the words: — any of, — so as to read as follows: — *Section 12.* This act shall take effect when any of the departments named in section five are ready for occupancy. The prison commissioners and the trustees of the state farm shall notify the governor when said departments are in a suitable condition to receive inmates; and the governor may then issue his proclamation establishing such departments as places for the custody of defective delinquents. [*Approved June 13, 1913.*

Time of taking effect.

For provision as to leasing temporary quarters, see Resolves 1913, 124.

[1913, 457.]

AN ACT TO AUTHORIZE CONTINUANCES IN CASES AGAINST CHILDREN.

Cases against certain children may be continued, etc.

Whenever any child is brought before any court for being neglected, wayward, delinquent, truant, or for being an habitual absentee and habitual school offender or stubborn, the court may continue the case for such time not exceeding six months for any one continuance as shall seem best for the interest of the child. [*Approved April 10, 1913.*

[1913, 471, § 2.]

AN ACT RELATIVE TO POLICE, DISTRICT AND MUNICIPAL COURTS AND THEIR OFFICIALS AND PRACTICE.

Execution of certain orders of commitment may be suspended, etc.

SECTION 2. In all cases the execution of orders of commitment to the Massachusetts reformatory, the reformatory for women, the Suffolk school for boys, the Plummer farm school of reform for boys, any truant school, however named, any house of reformation for juvenile offenders, the Lyman school, the industrial school for girls, the industrial school for boys, and the state board of charity, may be suspended, and such suspension continued or revoked, in the same manner and with the same effect as the execution of sentences in criminal cases. [*Approved April 10, 1913.*

[1914, 762, § 2.]

AN ACT RELATIVE TO THE ORGANIZATION AND POWERS OF THE STATE BOARD OF INSANITY.

State board of insanity, powers and duties.

SECTION 2. The state board of insanity in addition to its present powers shall have the following powers and duties: It shall have charge of all insane, feeble-minded and epileptic persons and of persons addicted to the intemperate use of narcotics or stimulants, the care of whom is vested in the commonwealth by law, and of all institutions or buildings now or hereafter owned or maintained by the commonwealth for the care of such persons. But

Norfolk State Hospital and Hospital Cottages for Children to be supervised by state board of charity.

the board shall not have charge of the Norfolk state hospital or of the Hospital Cottages for Children; and the powers and duties now pertaining to the state board of insanity in respect to the said two institutions shall hereinafter pertain to the state board of charity. The state board of insanity shall have supervision and control of any institution which may hereafter be placed under its supervision and control by the governor with the advice and consent of the council. The board shall have the same powers relative to state charges in institutions or other places under its supervision and to their property as are vested in towns and overseers of the poor relative to paupers supported or relieved by towns. [*Approved July 7, 1914.*

[1915, 113, Gen.]

AN ACT FURTHER TO DEFINE THE POWERS AND DUTIES OF THE TRUSTEES OF MASSACHUSETTS TRAINING SCHOOLS.

Trustees Massachusetts training schools may grant discharges in certain cases.

Section 1. The board of trustees in charge of the industrial school for boys, of the industrial school for girls and of the Lyman school for boys, may grant an honorable discharge to any person in their custody who, in its opinion, for meritorious conduct is worthy and deserving of such a discharge, and whom the trustees believe to be permanently reformed. The court of commitment shall be so notified in writing and thereupon shall make an entry to the foregoing effect in their records concerning this particular person. An honorable discharge by the trustees, or upon attaining the age of twenty-one years, shall be a complete release from all penalties or disabilities incurred in consequence of commitment to any of the foregoing institutions.

May transfer certain inmates to the Massachusetts reformatory and the reformatory for women.

Section 2. The trustees may transfer any person committed or transferred to the industrial school for boys or to the Lyman school for boys, who is still in the custody of said trustees, and who has proved unmanageable or an improper person to remain in either of the said institu-

tions, to the Massachusetts reformatory; and in the same way may transfer any person committed or transferred to the industrial school for girls and still in the custody of the trustees, to the reformatory for women. Any person so transferred shall be accompanied by all mittimuses and processes, by a copy of the medical report, and by the facts covering the history and conduct of the person, and of the circumstances of the person's home, so far as they can be ascertained. In all other respects the transfer shall have the same effect as is now provided by law. All provisions of law inconsistent with this section are hereby repealed.

May act as guardian in certain cases.

Section 3. The trustees may act as guardians for any boy or girl in their charge who is under twenty-one years of age and who has neither parent living nor any guardian otherwise appointed, with all the power and authority conferred by the provisions of chapter one hundred and forty-five of the Revised Laws and amendments thereof, except that when a guardian otherwise may be appointed, the powers herein conferred shall cease.

To encourage thrift in their wards.

Section 4. The trustees shall make earnest efforts to induce boys and girls, in their charge on parole, to save some portion of their earnings which, under the direction of the trustees, shall be placed in savings banks and held by them for the benefit of the ward, or when deemed necessary, expended in his or her behalf, or by direction of the trustees applied on liabilities incurred by the ward. Upon the attaining of the age of twenty-one years, unless a different agreement is made by the trustees with the ward, these deposits shall be paid to the ward, or in case of death at any time, to his legal representatives.

1907, 362, to apply to inmates of the industrial school for boys.

Section 5. The provisions of chapter three hundred and sixty-two of the acts of the year nineteen hundred and seven shall be extended to inmates of the industrial school for boys.

Section 6. This act shall take effect upon its passage. [*Approved March 27, 1915.*

THE MASSACHUSETTS HOSPITAL SCHOOL.

[1904, 446.]

AN ACT TO ESTABLISH THE MASSACHUSETTS SCHOOL AND HOME FOR CRIPPLED AND DEFORMED CHILDREN.

For change of name, see 1907, 226, infra. For protection of minors in the religious belief of their parents, see 1905, 464, p. 117, supra. As to correspondence by letter between the Board and inmates of institutions under its supervision, see 1906, 341, p. 137, supra. As to estimates and plans for improvements at State institutions, see 1907, 271, 520, p. 137, supra.

Board of trustees of the Massachusetts School and Home for Crippled and Deformed Children, appointment, terms, etc.

SECTION 1. The governor, with the advice and consent of the council, shall appoint five persons who shall constitute the Board of Trustees of the Massachusetts School and Home for Crippled and Deformed Children, the purpose of which shall be the education and care of the crippled and deformed children of the commonwealth. The trustees shall hold office for terms of one, two, three, four and five years, respectively, beginning with the first Monday of December in the present year, and until their respective successors are appointed and qualified; and previous to the first Monday in December in each year thereafter the governor shall in like manner appoint one such trustee to hold office for the term of five years, beginning with the first Monday in December of the year of his appointment, and until his successor is appointed and qualified. Any such trustee may be removed by the governor, with the advice and consent of the council. Any vacancy occurring in said board shall be filled in like manner for the unexpired term.

Vacancy.

Certain lands not to be taken for street, highway, etc., without leave of general court.

SECTION 2. The lands held by said trustees in trust for the commonwealth for the use of said school and home, as hereinafter provided, shall not be taken for a street, highway or railroad without leave of the general court specially obtained.

Powers and duties of trustees.

SECTION 3. The trustees shall be a corporation for the same purposes for which the trustees of each of the state

insane hospitals are made a corporation by section twenty-three of chapter eighty-seven of the Revised Laws, with all the powers necessary to carry said purposes into effect.

Trustees to select site for school and home, erect buildings, etc.

SECTION 4. The trustees shall select a site for the school and home; and shall have power to purchase land therefor, subject to the approval of the governor and council, and to erect on such land suitable buildings to hold not less than three hundred children and the officers, employees and attendants, and to provide for the equipment and furnishing of said buildings: *provided, however,* that the expenditure for carrying out the purposes of this act shall not exceed three hundred thousand dollars. No expenditure shall be made for the erection of buildings except for plans therefor, until the plans have been approved by the governor and council, and no such approval shall be given unless the governor and council shall be satisfied that the cost of the real estate and the erection and completion of buildings and the equipment and furnishing of the same, so as to be ready for occupancy, will not exceed three hundred thousand dollars. The trustees shall have authority to make all contracts and employ all agents necessary to carry into effect the provisions of this act.

Proviso.

Plans to be approved by governor and council.

Contracts, etc.

Powers and duties of trustees.

SECTION 5. The trustees shall have the same powers and shall be required to perform the same duties in the management and control of the said school and home, as are vested in, and required of, the trustees of the various state insane hospitals under chapter eighty-seven of the Revised Laws, so far as said chapter is applicable.

Governor to issue proclamation establishing school and home.

SECTION 6. When the buildings constructed under the provisions of this act are so far completed that in the opinion of the trustees they may properly be used for the purposes of the school and home, the trustees shall notify the governor, who shall thereupon issue his proclamation establishing the school and home.

Compensation and expenses of trustees.

SECTION 7. After the establishment of the school and home the trustees shall receive no compensation for their

services, but they shall be reimbursed from the treasury of the commonwealth for all expenses actually incurred by them in the performance of their official duties.

Appointment, etc., of persons necessary for administration of affairs, etc.

SECTION 8. The trustees may appoint, and, subject to the approval of the governor and council, may fix the salaries of all persons necessary for the proper administration of the affairs of the school and home, and may incur all expenses necessary for the maintenance of the school and home.

Payment of charges for support of children, etc.

SECTION 9. [*Superseded by 1909, 497, infra.*] The charges for the support of the children of the school and home who are of sufficient ability to pay for the same, or have persons or kindred bound by law to maintain them, shall be paid by such children, such persons or such kindred at a rate to be determined by the trustees of the school and home. The board of such children as have a legal settlement in some city or town shall be paid by such city or town if such children are received at the school and home on the request of the overseers of the poor of such city or town. The trustees may in their discretion receive other children who have no means to pay for tuition and board; and the tuition and board of all such children shall be paid from the treasury of the commonwealth.

[1909, 497.]

AN ACT RELATIVE TO THE CARE OF CERTAIN CHILDREN AT THE MASSACHUSETTS HOSPITAL SCHOOL.

1904, 446, § 9, amended.

SECTION 1. Chapter four hundred and forty-six of the acts of the year nineteen hundred and four is hereby amended by striking out section nine and inserting in

Children who may be admitted to the hospital school.

place thereof the following: — *Section 9.* The trustees may, upon the written application of any child entitled to receive the benefit of said school, or upon such an application made by a parent, guardian, or person having the legal custody of the child, or by any state or municipal board or official having such custody, admit such child to said school, subject to such rules and regulations as the trustees may prescribe, and the trustees may at their discretion discharge such child from the school. The charges for the support of the children of the school who are of sufficient ability to pay for the same, or have persons or kindred bound by law to maintain them, shall be

paid by such children, such persons or such kindred at a rate to be determined by the trustees of the school. The board of such children as have a legal settlement in some city or town shall be paid by such city or town at a rate not exceeding four dollars a week, notice of the reception of the children by the trustees being given by them to the overseers of the poor of the city or town of settlement as soon as is practicable; and the tuition and board of those having no such settlement shall be paid by the commonwealth. The trustees may in their discretion receive other children who have no means to pay for tuition and support, and the tuition and board of all such children shall be paid from the treasury of the commonwealth. The attorney-general and district attorneys shall upon request bring action to recover said charges in the name of the treasurer and receiver general. Such charges as are paid by the commonwealth, or by any city or town shall not be deemed to have been paid as state or pauper aid, and no person shall be deemed to be a pauper in consequence of his inability to pay for the support of a child in said school. The admission of a child as aforesaid to the school shall be deemed a commitment of the child to the care and custody of the commonwealth, and the trustees, with the approval of the state board of charity, may in their discretion detain the child at said school during its school age, or for such longer period during its minority as in the opinion of the trustees will tend to promote the education and welfare of the child.

Payment of charges for support of children, etc.

Section 2. This act shall take effect upon its passage. [*Approved June 15, 1909.*

Section 10. There shall be a thorough visitation of the school and home by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, and after each visitation a written report of the state of the institution shall be drawn up,

Visitation of school and home.

Report to be made to governor and council.

which shall be presented at the annual meeting to be held in December. At the annual meeting the trustees shall make a detailed report of their doings to the governor and council, and shall audit the report of the treasurer, which shall be presented at said annual meeting, and transmit it with their annual report to the governor and council.

Books, etc., to be open to inspection of trustees.

SECTION 11. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

State board of charity to have general supervision of school and home, etc.

SECTION 12. The state board of charity shall have general supervision of said school and home, and may, when so directed by the governor, assume and exercise the powers of the board of trustees of said school and home in any matter relating to the management thereof.

Massachusetts School and Home for Crippled and Deformed Children Loan.

SECTION 13. [*Superseded by 1905, 128, infra.*] For the purpose of meeting expenses incurred under the provisions of this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding three hundred thousand dollars, for a term not exceeding twenty years. Such scrip or certificates of indebtedness shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum. They shall be designated on the face thereof as the Massachusetts School and Home for Crippled and Deformed Children Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein in gold coin of the United States or its equivalent; and such scrip or certificates shall be sold and disposed of at public auction, or in such other mode, and at such times and prices, and in such amounts, as the treasurer shall deem best. Such amounts shall be raised annually by taxation as will be sufficient, with the interest thereon, to pay the interest on the loan and the principal as it falls due.

Payment of loan.

SECTION 14. This act shall take effect upon its passage. [*Approved June 8, 1904.*

[1905, 128.]

AN ACT RELATIVE TO THE MASSACHUSETTS SCHOOL AND HOME FOR CRIPPLED AND DEFORMED CHILDREN.

1904, 446, § 13, amended.

SECTION 1. Section thirteen of chapter four hundred and forty-six of the acts of the year nineteen hundred and four, being "An Act to establish the Massachusetts school

and home for crippled and deformed children", is hereby amended by striking out the whole section and inserting in place thereof the following: — *Section 13.* For the purpose of meeting expenses incurred under the provisions of this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding three hundred thousand dollars, for a term not exceeding thirty years. Such scrip or certificates of indebtedness shall be issued as registered bonds or with interest coupons attached, and shall bear interest at a rate not exceeding four per cent per annum. They shall be designated on the face thereof, Prisons and Hospitals Loan, shall be countersigned by the governor and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein in gold coin of the United States or its equivalent; and such scrip or certificates shall be sold or disposed of at public auction, or in such other mode, and at such times and prices, and in such amounts, as the treasurer shall deem best. The sinking fund established by chapter three hundred and ninety-one of the acts of the year eighteen hundred and seventy-four, known as the Prisons and Hospitals Loan Sinking Fund, shall also be maintained for the purpose of extinguishing the bonds issued under the authority of this act, and the treasurer and receiver general shall apportion thereto from year to year an amount sufficient with the accumulations of said fund to extinguish at maturity the debt incurred by the issue of said bonds. Any premiums received from the sale thereof shall be paid into the sinking fund. The amount necessary to meet the annual sinking fund requirements and to pay the interest on said bonds shall be raised by taxation from year to year.

Prisons and Hospitals Loan.

Sinking fund.

SECTION 2. This act shall take effect upon its passage. [*Approved March 3, 1905.*

THE STATE TUBERCULOSIS SANATORIA.

R. L. CHAPTER 88.

OF THE MASSACHUSETTS STATE SANATORIUM.

Board of trustees. 1895, 503, § 1. 1900, 192.

Section 1. [*Superseded in part by 1905, 159, infra. See also 1907, 474, § 15, infra.*] The board of trustees of the Massachusetts state sanatorium shall consist of five persons, one of whom shall annually, before the first Monday in July, be appointed by the governor, with the advice and consent of the council, for a term of five years from said day. Any such trustee may be removed by the governor, with the advice and consent of the council, for such cause as they consider sufficient and express in the order of removal.

[1905, 159.]

An Act to increase the number of the trustees of the Massachusetts state sanatorium.

Number of trustees of the Massachusetts state sanatorium increased.

Section 1. [*Superseded by 1907, 474, §§ 1, 15.*] The number of the trustees of the Massachusetts state sanatorium is hereby increased to seven, two of whom shall be women; and the governor is hereby authorized to appoint, with the advice and consent of the council, before the first Monday in July, the additional trustees thus provided for. In the year nineteen hundred and ten, and in every fifth year thereafter, three trustees shall be appointed, and in every other year one trustee shall be appointed.

Section 2. This act shall take effect upon its passage. [*Approved March 9, 1905.*

Use of land held by trustees. 1895, 503, § 2.

Section 2. The land held by said trustees in trust for the commonwealth for the use of said sanatorium shall not be taken for a street, highway or railroad without leave of the general court specially obtained.

Trustees to be a corporation. 1895, 503, § 3.

Section 3. The trustees shall be a corporation for the same purposes for which the trustees of each of the state insane hospitals are made a corporation by the provisions of section twenty-three of chapter eighty-seven, with all the powers necessary to carry said purposes into effect.

Powers and duties of trustees. 1895, 503, § 5.

Section 4. Said trustees shall have the same powers and shall be required to perform the same duties in the management and control of said sanatorium as are vested in and required of the trustees of the various state insane hospitals under the provisions of sections twenty-six, twenty-seven and twenty-nine of chapter eighty-seven.

Compensation, etc., of trustees. 1895, 503, § 7.

Section 5. Said trustees shall receive no compensation for their services, but they shall be reimbursed by the

commonwealth for all expenses actually incurred by them in the performance of their official duties.

Physicians, assistants, etc. 1895, 503, § 8.

SECTION 6. Said trustees may appoint the physicians, assistants and employees necessary for the proper administration of the affairs of said sanatorium and may incur all expenses necessary for the maintenance of the same. They shall provide homœopathic medical treatment for all patients who desire it and for that purpose shall appoint such number of homœopathic physicians as may be necessary.

Charges for support of inmates, etc. 1895, 503, § 9.

SECTION 7. [*Amended by 1909, 378; and repealed by 1911, 396, infra.*] The charges for the support of the inmates of said sanatorium who are of sufficient ability or have persons or kindred bound by law to maintain them shall be paid by such inmates, such persons or such kindred at a rate to be determined by the trustees of said sanatorium. The board of such inmates as have a legal settlement in a city or town shall be paid by said city or town if such patients are received at said sanatorium on the request of the overseers of the poor thereof. The trustees may in their discretion receive other patients who have no means to pay for treatment; and the board of all such patients shall be paid by the commonwealth.

[1909, 378.]

AN ACT RELATIVE TO THE SUPPORT OF CERTAIN INMATES OF THE MASSACHUSETTS STATE SANATORIUM.

R. L. 88, § 7, amended.

SECTION 1. [*Repealed by 1911, 396, infra.*] Section seven of chapter eighty-eight of the Revised Laws is hereby amended by striking out the words "overseers of the poor", in the eighth line, and inserting in place thereof the words: — board of health, — so as to read as follows: — *Section 7.* The charges for the support of the inmates of said sanatorium who are of sufficient ability or have persons or kindred bound by law to maintain them shall be paid by such inmates, such persons or such kindred at a rate to be determined by the trustees of said sanatorium. The board of such inmates as have a legal settlement in a city or town shall be paid by said city or town if such patients are received at said sanatorium on the request of the board of health thereof. The trustees may in their discretion receive other patients who have no means to pay for treatment; and the board of all such patients shall be paid by the commonwealth.

Payment of charges for support of certain inmates of the Massachusetts state sanatorium.

SECTION 2. This act shall take effect upon its passage. [*Approved May 13, 1909.*

[1911, 396.]

AN ACT RELATIVE TO THE SUPPORT OF CERTAIN INMATES OF THE RUTLAND STATE SANATORIUM.

R. L. 88, § 7, repealed.

SECTION 1. Section seven of chapter eighty-eight of the Revised Laws and sections one and two of chapter three hundred and seventy-eight of the acts of the year nineteen

hundred and nine, in amendment thereof, are hereby repealed.

Section 2. This act shall take effect upon its passage. [*Approved May 4, 1911.*

Visitation by trustees, annual report. 1895, 503, § 10.

Section 8. There shall be a thorough visitation of said sanatorium by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, at each of which a written report of the condition of the institution shall be prepared, which shall be presented at the annual meeting to be held in October. At the annual meeting, the trustees shall make a detailed report in the same manner as is required of the trustees of the state insane hospitals, and shall audit the report of the treasurer, which shall be presented at said annual meeting, and transmit it with their annual report to the governor and council.

See 1905, 211, establishing a new fiscal year for the Commonwealth; 1902, 438, establishing a State Board of Publication. For submission of plans to the State Board of Charity, see 1907, 271, p. 137, supra.

Accounts. 1895, 503, § 11.

Section 9. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

See as to accounts, 1908, 195.

ADDITIONAL LEGISLATION.

[1905, 175.]

[*Superseded by 1909, 504, §§ 95, 96.*]

An Act relative to the accounts of certain state institutions.

Annual appropriations to be made for the maintenance of certain state institutions, etc. Accounts.

Section 1. Annual appropriations, in addition to unexpended receipts, shall be made for the maintenance of each of the state hospitals and insane asylums, the Massachusetts hospital for dipsomaniacs and inebriates, the Massachusetts hospital for epileptics, the Massachusetts state sanatorium, and the Massachusetts School for the Feeble-Minded. All accounts for the maintenance of the above institutions shall be approved by the trustees and filed with the auditor of accounts at the end of each month, and shall be paid out of the treasury of the commonwealth. Full copies of the payrolls and bills shall be kept at each institution, but the originals shall be deposited with the auditor of accounts as vouchers.

Money received to be paid into the treasury of the commonwealth, etc.

SECTION 2. All money received by said hospitals, asylums and other institutions shall be paid into the treasury of the commonwealth as often as once in each month. The receipts from each institution shall be placed to its credit, and shall be used for its maintenance during the following year.

Certain powers of trustees not affected, etc.

SECTION 3. The provisions of the two preceding sections shall not affect the powers of the trustees of said institutions under the provisions of section twenty-three of chapter eighty-seven of the Revised Laws, section three of chapter eighty-eight of the Revised Laws, chapter one hundred and fifty of the acts of the year eighteen hundred and fifty, and acts in amendment thereof, nor their right to regulate or control the expenditure of any funds held by them under the provisions of said acts.

Repeal.

SECTION 4. Sections one hundred and twenty-seven, one hundred and twenty-eight and one hundred and twenty-nine of chapter eighty-seven of the Revised Laws are hereby repealed.

When to take effect.

SECTION 5. This act shall take effect on the first day of January in the year nineteen hundred and six. [*Approved March 14, 1905.*

[1907, 222.]

AN ACT RELATIVE TO THE ADMISSION OF PERSONS TO THE MASSACHUSETTS STATE SANATORIUM.

Admission of persons to the Massachusetts state sanatorium.

SECTION 1. [*Amended by 1912, 468.*] In the admission of persons to the Massachusetts state sanatorium preference shall be given to those applicants who are citizens of the commonwealth.

Enforcement of the law.

SECTION 2. It shall be the duty of the state board of charity to see that this law is enforced.

SECTION 3. This act shall take effect upon its passage. [*Approved March 20, 1907.*

[1912, 468.]

AN ACT RELATIVE TO THE ADMISSION OF PATIENTS TO THE RUTLAND STATE SANATORIUM.

1907, 222, § 1, amended.

SECTION 1. Chapter two hundred and twenty-two of the acts of the year nineteen hundred and seven is hereby amended by striking out section one and inserting in place thereof the following: — *Section 1.* Except in cases where the board of trustees of hospitals for consumptives considers that an exception should be made, citizens of the commonwealth shall be given preference in the admission of persons to the Rutland state sanatorium, and no person shall be admitted to said sanatorium who has not been a

Admission of persons to the Rutland state sanatorium.

resident of the commonwealth for at least six months preceding the date of his application for admission.

Section 2. This act shall take effect upon its passage. [*Approved April 10, 1912.*

[1907, 474.]

An Act to provide for establishing three sanatoriums for tubercular patients.

Establishment of sanatoriums for tubercular patients.

Section 1. [*Amended by 1910, 198, 491, infra.*] The governor, with the advice and consent of the council, shall appoint a board of nine persons, one of whom shall be a representative of the state board of charity, another of the state board of health. and three shall be members of the board of trustees of the sanatorium at Rutland, whose duty shall be to select and purchase sites, approve plans, make contracts, select superintendents, and supervise the construction of three sanatoriums for tubercular patients, each sanatorium to have accommodations for not less than one hundred and fifty patients, and for the necessary officers, employees and attendants, and to provide for the equipment and furnishing of said buildings, one to be located in northeastern Massachusetts, another to be located in southeastern Massachusetts and the third in the Connecticut valley. When the said sanatoriums have been completed, and the governor has issued a proclamation declaring them ready for the admission of patients as hereinafter provided, the representatives of the board of charity, and of the board of health designated above, shall cease to act, and the administration of the three sanatoriums shall be vested in the remaining seven, who shall act as a board of trustees.

For authority to take land for sewer and water purposes, see 1908, 533, infra.

Terms of office of trustees, etc.

Section 2. The members of said board shall hold office, two for the term of five years, two for the term of four years, one for the term of three years, one for the term of two years and one for the term of one year, beginning with the second Monday in June in the year nineteen hundred and seven, and until their respective successors are appointed and qualified. In the years nineteen hundred and eleven and nineteen hundred and twelve, and in every fifth year thereafter, two members shall be appointed, and in every other year one member shall be appointed. Each member shall hold office for the term of five years, beginning with the second Monday in June in the year of his appointment. The governor may, with the advice and consent of the council, remove any member of said board,

and may appoint any person to fill for the unexpired term any vacancy occurring by resignation or removal, or for any other cause.

Lands not to be taken for highways, etc.

SECTION 3. The lands held by said trustees in trust for the commonwealth for the use of said sanatoriums as hereinafter provided shall not be taken for a highway, railway or railroad without leave of the legislature specially obtained.

Trustees to be a corporation.

SECTION 4. The said trustees shall be a corporation for the same purposes for which the trustees of each of the state insane hospitals are made a corporation by section twenty-three of chapter eighty-seven of the Revised Laws.

Expenditures.

SECTION 5. [*Amended by 1908, 532, § 1.*] The expenditure for carrying out the purposes of this act shall not exceed three hundred thousand dollars. No expenditure shall be made for the erection of buildings except for plans therefor, until such plans have been approved by the governor and council, and no such approval shall be given unless the governor and council are convinced that the cost of the real estate and the erection of the buildings, and the equipment and furnishing of the same ready for occupancy, will not exceed three hundred thousand dollars. The trustees shall have authority to make all contracts and to employ all agents necessary to carry into effect the provisions of this act.

Powers, etc., of trustees.

SECTION 6. Said trustees shall have the same powers and shall be required to perform the same duties in the management and control of said sanatoriums which are vested in and required of the trustees of the various state hospitals under authority of chapter eighty-seven of the Revised Laws.

Governor to be notified when buildings are constructed.

SECTION 7. [*Superseded by 1908, 532, § 2.*] When the buildings constructed under the provisions of this act are so far completed that in the opinion of said trustees they may properly be used for the purpose aforesaid, the trustees shall notify the governor, who shall thereupon issue his proclamation establishing the said sanatoriums.

Compensation of trustees.

SECTION 8. The trustees shall receive no compensation for their services, but they shall be reimbursed from the treasury of the commonwealth for all expenses actually incurred by them in the performance of their official duties.

Physicians, assistants, etc.

Section 9. The trustees may appoint the physicians, assistants and employees necessary for the proper administration of the affairs of said sanatoriums, and may incur all expenses necessary for the maintenance of the same. They may also establish out patient departments, and may disseminate information as to the best methods of combating the disease.

Charges for support of inmates.

Section 10. [*Amended by 1912, 17, infra.*] The charges for the support of each inmate in a state sanatorium shall be four dollars a week, and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall be paid by the commonwealth, and may afterward be recovered by the treasurer and receiver general of the patients, if they are able to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but for those having known settlements in this commonwealth, the charges shall be paid either by the persons bound to pay them, or by the place in which such inmates had their settlement, unless security to the satisfaction of the trustees is given for their support. If any person or place refuses or neglects to pay such charges the treasurer and receiver general may recover the same to the use of the sanatorium, as provided in section seventy-nine of chapter eighty-seven of the Revised Laws. A city or town which pays the charges for the support of an inmate of a state sanatorium shall have like rights and remedies to recover the amount thereof, with interest and costs, from the place of his settlement or from such person of sufficient ability, or from any person bound by law to maintain him, as if such charges had been incurred in the ordinary support of such inmate.

Visitation.

Section 11. There shall be a thorough visitation of said sanatoriums by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, and at, or immediately after, each visitation a written report of the state of the institution shall be drawn up, which shall be presented at the annual meeting to be held between the first day of October and the first day of November. At the annual meeting the trustees shall make a detailed report in the manner required of the trustees of the state insane hospitals, and shall audit the report of the treasurer, which shall be presented at said annual meeting, and shall transmit it with their annual report to the governor and council.

Accounts, etc.

Section 12. The accounts and books of the treasurer shall at all times be open to the inspection of the trustees.

SECTION 13. For the purpose of meeting the expenses that may be incurred under the provisions of this act the treasurer and receiver general is hereby authorized, with the approval of the governor and council, to issue scrip or certificates of indebtedness to an amount not exceeding three hundred thousand dollars, for a term not exceeding thirty years. Such scrip or certificates of indebtedness shall be issued as registered bonds or with interest coupons attached, shall bear interest not exceeding four per cent per annum, payable semi-annually on the first days of May and November, shall be designated on the face thereof, Hospitals for Consumptives Loan, shall be countersigned by the governor, and shall be deemed a pledge of the faith and credit of the commonwealth, and the principal and interest shall be paid at the times specified therein in gold coin of the United States or its equivalent. The said scrip or certificates of indebtedness shall be sold and disposed of at public auction, or in such other mode, and at such times and prices, and in such amounts, the rate of interest not to exceed the rate above specified, as shall be deemed best by the treasurer and receiver general; but none of said bonds shall be sold at less than the par value thereof. The sinking fund established by chapter three hundred and ninety-one of the acts of the year eighteen hundred and seventy-four, known as the Prison and Hospital Loan Sinking Fund, shall also be maintained for the purpose of extinguishing bonds issued under the authority of this act, and the treasurer and receiver general shall apportion thereto from year to year an amount sufficient with the accumulations of said fund to extinguish at maturity the debt incurred by the issue of the securities hereby authorized. The amount necessary to meet the annual sinking fund requirements and to pay the interest on said loan shall be raised by taxation from year to year.

Hospitals for Consumptives Loan.

Sinking fund.

SECTION 14. The state board of charity shall have general supervision of said sanatoriums, and shall, when so directed by the governor, assume and exercise the powers

Supervision.

of the board of trustees thereof in any matter relating to the management of the same.

Upon completion of sanatoriums powers of certain trustees shall cease.

Section 15. Upon the completion of the sanatoriums as herein provided, the trustees shall assume and exercise all the powers and duties in respect to the sanatorium at Rutland now pertaining to the trustees of that institution, and upon such completion, the powers of the said last named trustees, in respect to the said sanatorium, shall cease.

Section 16. This act shall take effect upon its passage. [*Approved June 4, 1907.*

[1908, 532.]

An Act to authorize the construction of a sanatorium for tubercular patients.

1907, 474, § 5, amended.

Section 1. Section five of chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven is hereby amended by inserting after the word "dollars", in the tenth line, the words: — *provided, however,* that the governor and council may, in their discretion, approve plans for any one of said sanatoriums separately, if they are convinced that the cost of such sanatorium, including the real estate and erection of the buildings and the equipment and furnishing of the same ready for occupancy, will not exceed one hundred thousand dollars, and after such approval a sum not exceeding one hundred thousand dollars may be expended for the erection, equipment and furnishing of such sanatorium, notwithstanding that the plans for the other sanatoriums have not been approved, — so as to read as follows: —

Expenditures for constructing state sanatoriums.

Section 5. The expenditure for carrying out the purposes of this act shall not exceed three hundred thousand dollars. No expenditure shall be made for the erection of buildings except for plans therefor, until such plans have been approved by the governor and council, and no such approval shall be given unless the governor and council are convinced that the cost of the real estate and the erection of the buildings, and the equipment and furnish-

ing of the same ready for occupancy, will not exceed three hundred thousand dollars: *provided, however,* that the governor and council may, in their discretion, approve plans for any one of said sanatoriums separately, if they are convinced that the cost of such sanatorium, including the real estate and erection of the buildings and the equipment and furnishing of the same ready for occupancy, will not exceed one hundred thousand dollars, and after such approval a sum not exceeding one hundred thousand dollars may be expended for the erection, equipment and furnishing of such sanatorium, notwithstanding that the plans for the other sanatoriums have not been approved. The trustees shall have authority to make all contracts and to employ all agents necessary to carry into effect the provisions of this act. Proviso.

Section 2. Said chapter four hundred and seventy-four is hereby further amended by striking out section seven and inserting in place thereof the following: — *Section 7.* When any one of the buildings constructed under the provisions of this act is so far completed that in the opinion of said trustees it may properly be used for the purpose aforesaid, the trustees shall notify the governor who shall thereupon issue his proclamation establishing said sanatorium. 1907, 474, § 7, amended. Governor to issue proclamation.

Section 3. This act shall take effect upon its passage. [*Approved May 19, 1908.*

[1912, 17.]

An Act relative to bringing suits for the recovery of unpaid charges for the support of inmates of state sanatoriums.

Section 1. Section ten of chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven is hereby amended by striking out all after the word "sanatorium", in the sixteenth line, to and including the word "laws", in the seventeenth line, and inserting in place thereof the words: — The attorney-general shall 1907, 474, § 10, amended.

upon request of the board of trustees bring action therefor in the name of the treasurer and receiver general, — so as to read as follows: — *Section 10.* The charges for the support of each inmate in a state sanatorium shall be four dollars a week, and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall be paid by the commonwealth, and may afterward be recovered by the treasurer and receiver general of the patients, if they are able to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but for those having known settlements in this commonwealth, the charges shall be paid either by the persons bound to pay them, or by the place in which such inmates had their settlement, unless security to the satisfaction of the trustees is given for their support. If any person or place refuses or neglects to pay such charges the treasurer and receiver general may recover the same to the use of the sanatorium. The attorney-general shall upon request of the board of trustees bring action therefor in the name of the treasurer and receiver general. A city or town which pays the charges for the support of an inmate of a state sanatorium shall have like rights and remedies to recover the amount thereof, with interest and costs, from the place of his settlement or from such person of sufficient ability, or from any person bound by law to maintain him, as if such charges had been incurred in the ordinary support of such inmate.

Charge for support of inmates of state sanatoria.

Section 2. This act shall take effect upon its passage. [*Approved January 30, 1912.*

[1910, 198.]

An Act to establish the names of certain state sanatoriums.

Section 1. The name of the Massachusetts state sanatorium at Rutland shall hereafter be the Rutland State Sanatorium; and the names of the three sanatoriums

Names of certain state sanatoria established.

provided for by chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven shall hereafter be, respectively, the North Reading State Sanatorium, the Lakeville State Sanatorium, and the Westfield State Sanatorium.

SECTION 2. This act shall take effect upon its passage. [*Approved March 11, 1910.*

[1910, 491.]

AN ACT RELATIVE TO THE BOARD APPOINTED TO ESTABLISH THREE SANATORIUMS FOR TUBERCULAR PATIENTS.

Trustees of Hospitals for Consumptives, name established, etc.

SECTION 1. The board appointed in pursuance of chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven to establish three sanatoriums for tubercular patients shall hereafter be known as the Trustees of Hospitals for Consumptives. The said trustees may establish an office in the state house or elsewhere in the city of Boston and may employ clerical assistance and may incur such necessary travelling and other expenses as shall be approved by the governor and council. Appropriations shall be made annually from the treasury of the commonwealth for carrying out the provisions of said chapter four hundred and seventy-four and of this act.

SECTION 2. This act shall take effect upon its passage. [*Approved May 5, 1910.*

[1908, 533.]

AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF THREE SANATORIUMS FOR TUBERCULAR PATIENTS TO TAKE LAND AND EASEMENTS FOR WATER AND SEWERAGE PURPOSES.

Land, etc., may be taken for water and sewerage purposes for sanatoriums for tubercular patients.

SECTION 1. The trustees of sanatoriums for tubercular patients, established by chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven, are hereby authorized to lease or purchase or take by right of eminent domain at any time within two years after the

passage of this act such lands or easements or rights therein as they may deem necessary for the purpose of establishing a water supply and sewerage system for the three sanatoriums for tubercular patients authorized by said chapter to be constructed, provided that the same shall be approved by the state board of health.

Taking to be recorded, etc.

Section 2. The said trustees shall within thirty days after taking any property or easements or rights therein by right of eminent domain sign and cause to be recorded in the registry of deeds for the county and district in which the same are situated, a statement containing a description thereof as certain as is required in a common conveyance of land, and stating that the same are taken for the purpose of establishing a water supply and sewerage system for said hospitals or any one of them, and upon such recording the property, easements and rights described in said statement shall be deemed to be taken by the commonwealth. Said trustees shall, after they have taken any property under the right of eminent domain, notify the owner thereof.

Damages.

Section 3. Any person sustaining damage by the taking of land, easements, rights or other property hereunder who fails to agree with said trustees as to the amount thereof may have the same assessed and determined in the manner provided by law in the case of land taken for laying out highways, on application at any time within one year after the taking of such land or other property.

Proceedings for recovery of damages.

Section 4. In any proceeding for the recovery of damages hereunder said trustees may offer in court and consent in writing that a sum therein specified may be awarded as damages to the complainant; and if the complainant shall not accept the same within ten days after he has received notice of such offer, and shall not finally recover a greater sum than the one offered, not including interest on the sum recovered as damages from the date of the offer, said trustees shall be entitled to recover costs after said date, and the complainant, if he recovers

damages, shall be allowed costs only to the date of the offer, unless the damages so recovered shall be in excess of the amount offered by said trustees, as aforesaid.

SECTION 5. This act shall take effect upon its passage. [*Approved May 19, 1908.*

[1909, 414.]

AN ACT RELATIVE TO THE ESTABLISHMENT OF THREE SANATORIUMS FOR TUBERCULAR PATIENTS.

Sanatoria for tubercular patients, certain expenditures authorized for.

SECTION 1. For finishing and properly equipping the three sanatoriums provided for by chapter four hundred and seventy-four of the acts of the year nineteen hundred and seven, and for grading the land about the same, the trustees therefor are hereby authorized to expend a further sum of fifteen thousand dollars, in addition to the three hundred thousand dollars authorized to be expended by section five of the said act.

Treasurer and receiver general may issue scrip, etc.

SECTION 2. For the above purposes the treasurer and receiver general is authorized, with the approval of the governor and council, to issue additional scrip or certificates of indebtedness to an amount not exceeding fifteen thousand dollars, for a term not exceeding thirty years, with interest, at a rate not exceeding four per cent per annum, payable semi-annually on the first days of May and November. The sinking fund established by chapter three hundred and ninety-one of the acts of the year eighteen hundred and seventy-four, known as the Prisons and Hospitals Loan Sinking Fund, shall also be maintained for the purpose of extinguishing bonds issued under authority of this act.

SECTION 3. This act shall take effect upon its passage. [*Approved May 19, 1909.*

[1911, 597.]

AN ACT TO ENCOURAGE AND PROMOTE THE BUILDING AND USE OF TUBERCULOSIS HOSPITALS IN CITIES AND TOWNS.

Building and use of tuberculosis hospitals, etc.

SECTION 1. [*Superseded by 1912, 637.*] Every city or town which establishes and maintains a tuberculosis hospital shall be entitled to receive from the commonwealth a subsidy of five dollars per week for each patient who is unable to pay for his support, or whose kindred bound by law to

maintain him are unable to pay for the same, but the city or town shall not become entitled to this subsidy unless, upon examination authorized by the trustees of hospitals for consumptives, the sputum of such patients be found to contain bacilli of tuberculosis, and unless the hospital be subject to the inspection of, and be approved by, said trustees.

Payment of claims.

Section 2. [*Amended by 1912, 637.*] Said trustees of hospitals for consumptives shall certify in the case of each hospital approved by them as provided in the preceding section the number of patients for whom the city or town is entitled to the subsidy, and upon such certification the subsidy shall be paid from the treasury of the commonwealth in the same manner in which other claims against the commonwealth are paid.

Section 3. This act shall take effect upon its passage.

(*The foregoing was laid before the Governor on the twenty-first day of June, 1911, and after five days it had "the force of a law", as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.*)

[1912, 151.]

An Act relative to the maintenance of hospitals by cities and towns.

R. L. 75, § 35, etc., amended.

Section 1. Section thirty-five of chapter seventy-five of the Revised Laws, as amended by chapter six hundred and thirteen of the acts of the year nineteen hundred and eleven, is hereby further amended by striking out the said section and inserting in place thereof the following: —

Maintenance of isolation hospitals, etc.

Section 35. Each city shall, and each town may, and upon the request of the state board of health, shall, establish and maintain constantly within its limits one or more hospitals for the reception of persons having smallpox, diphtheria, scarlet fever, tuberculosis or other diseases dangerous to the public health as defined by the state board of health, unless there already exists in the city or town a hospital for the reception of persons ill with such diseases, which is satisfactory to the state board of health, or unless some arrangement which is satisfactory to the state board of health is made between neighboring cities or neighboring towns, or neighboring cities and towns, for the care of persons having such diseases. All such hospitals established and maintained by cities or towns shall be subject to the orders and regulations of the boards of health of the cities or towns in which they are respectively situated. Plans for the construction of the said hospitals shall be approved by the state board of

health, before the hospitals are constructed, and the state inspectors of health shall annually make such examination of said hospitals as in the opinion of the state board of health may be necessary. A city or town which upon the request of the state board of health refuses or neglects to establish and maintain such a hospital shall forfeit not more than five hundred dollars for each refusal or neglect: *provided, however,* that if, in the opinion of the boards of health of two or more adjoining cities or towns or a city and an adjoining town or towns, such hospitals can advantageously be established and maintained in common, the authorities of the said cities or towns may, subject to the approval of the state board of health, enter into such agreements as shall be deemed necessary for the establishment and maintenance of the same. Proviso.

Section 2. This act shall take effect upon its passage. [*Approved February 24, 1912.*

[1912, 637.]

An Act to promote the building and use of tuberculosis hospitals in cities and towns.

Section 1. Chapter five hundred and ninety-seven of the acts of the year nineteen hundred and eleven is hereby amended by striking out section one and inserting in place thereof the following: — *Section 1.* Every city or town which places its patients suffering from tuberculosis in a municipal or incorporated tuberculosis hospital in this commonwealth, or in a building or ward set apart for patients suffering from tuberculosis by a municipal or incorporated hospital in this commonwealth, shall be entitled to receive from the commonwealth a subsidy of five dollars a week for each patient who is unable to pay for his support, or whose kindred bound by law to maintain him are unable to pay for the same; but a city or town shall not become entitled to this subsidy unless, upon examination authorized by the trustees of hospitals for consumptives, the sputum of such patients be found to con- 1911, 597, § 1, amended. Tuberculosis hospitals, etc.

tain bacilli of tuberculosis, nor unless the hospital building or ward be approved by said trustees, who shall not give such approval unless they have by authority of law, or by permission of the hospital, full authority to inspect the same at all times. Said trustees may at any time withdraw their approval.

1911, 597, § 2, amended.

Section 2. Section two of said chapter five hundred and ninety-seven is hereby amended by inserting after the word "hospital", in the second line, the words: — building or ward, — so as to read as follows: — *Section 2.* Said trustees of hospitals for consumptives shall certify in the case of each hospital, building or ward, approved by them as provided in the preceding section the number of patients for whom the city or town is entitled to the subsidy, and upon such certification the subsidy shall be paid from the treasury of the commonwealth in the same manner in which other claims against the commonwealth are paid.

Payment of claims.

Section 3. This act shall take effect upon its passage. [*Approved May 23, 1912.*

[1911, 576.]

An Act to provide for the maintenance of tuberculosis dispensaries in cities, and towns of ten thousand inhabitants or over.

[*Amended by 1914, 408, infra.*]

Maintenance of tuberculosis dispensaries.

Every city, and every town containing a population of ten thousand or more, as determined by the latest United States census, shall establish and maintain within its limits a dispensary for the discovery, treatment, and supervision of needy persons resident within its limits and afflicted with tuberculosis, unless there already exists in such city or town a dispensary which is satisfactory to the state board of health. The said dispensaries shall be subject to the regulations of the boards of health of the cities or towns in which they are respectively situated. A city or town subject to the provisions of this act which, upon the request of the state board of health, refuses or neglects to comply with the provisions hereof, shall forfeit not more than five hundred dollars for every such refusal or neglect. [*Approved June 22, 1911.*

[1914, 408.]

An Act to standardize tuberculosis dispensaries.

1911, 576, amended.

Chapter five hundred and seventy-six of the acts of the year nineteen hundred and eleven is hereby amended by inserting after the word "situated", in the tenth line, the

following: — and shall be inspected by and be satisfactory to the state board of health, — so as to read as follows: — Every city, and every town containing a population of ten thousand or more, as determined by the latest United States census, shall establish and maintain within its limits a dispensary for the discovery, treatment, and supervision of needy persons resident within its limits and afflicted with tuberculosis, unless there already exists in such city or town a dispensary which is satisfactory to the state board of health. The said dispensaries shall be subject to the regulations of the boards of health of the cities or towns in which they are respectively situated, and shall be inspected by and be satisfactory to the state board of health. A city or town subject to the provisions of this act which, upon the request of the state board of health, refuses or neglects to comply with the provisions hereof, shall forfeit not more than five hundred dollars for every such refusal or neglect. [*Approved April 23, 1914.*

Maintenance of tuberculosis dispensaries, etc.

PENIKESE HOSPITAL.

For authority in the Board to remove persons infected with diseases dangerous to the public health, see 1904, 395; 1909, 391, pp. 52, 53, supra.

[1905, 474.]

AN ACT TO PROVIDE FOR THE CARE AND TREATMENT OF PERSONS INFECTED WITH LEPROSY.

SECTION 1. [*Amended by 1913, 73, infra.*] The state board of charity, subject to the approval of the governor, shall be authorized to take in the name and for the use of the Commonwealth land in fee by purchase or eminent domain, and to erect and maintain thereon a hospital for the custody, care and treatment of persons afflicted with leprosy, and for said purpose may expend a sum not exceeding fifty thousand dollars.

State board of charity authorized to take land and to erect hospital for care, etc., of persons afflicted with leprosy.

SECTION 2. Within sixty days after any land is acquired or taken under this act said board shall file and cause to be recorded in the registry of deeds for the county in which such land is situated a description thereof sufficiently accurate for its identification, together with a statement

Deeds to be recorded within sixty days, etc.

of the purpose for which the same is acquired or taken, which description shall be signed by a majority of said board.

SECTION 3. This act shall take effect upon its passage. [*Approved May 26, 1905.*

[1913, 73.]

AN ACT RELATIVE TO THE CARE AND TREATMENT OF PERSONS AFFLICTED WITH LEPROSY.

1905, 474, § 1, amended.

SECTION 1. Section one of chapter four hundred and seventy-four of the acts of the year nineteen hundred and five is hereby amended by adding at the end thereof the following: — The said board in maintaining said hospital shall have power to retain all persons afflicted with leprosy for such time as it shall deem necessary for the well-being of the patient and the safety of the public, and may discharge such persons when in its judgment their health and the public welfare would not be endangered thereby, — so as to read as follows: — *Section 1.* The state board of charity, subject to the approval of the governor, shall be authorized to take in the name and for the use of the commonwealth land in fee by purchase or eminent domain, and to erect and maintain thereon a hospital for the custody, care and treatment of persons afflicted with leprosy, and for said purpose may expend a sum not exceeding fifty thousand dollars. The said board in maintaining said hospital shall have power to retain all persons afflicted with leprosy for such time as it shall deem necessary for the well-being of the patient and the safety of the public, and may discharge such persons when in its judgment their health and the public welfare would not be endangered thereby.

Land may be taken and hospital erected for care, etc., of persons afflicted with leprosy.

SECTION 2. This act shall take effect upon its passage. [*Approved February 14, 1913.*

[1909, 250.]

AN ACT TO PROVIDE THAT PERSONS AFFLICTED WITH LEPROSY SHALL BE STATE CHARGES.

SECTION 1. A person who, being afflicted with leprosy, is confined in any state institution for the care of lepers, shall be a state charge, and no sum shall be collected on his account from the city or town in which he has a settlement. Persons afflicted with leprosy to be state charges.

SECTION 2. This act shall take effect upon its passage. [*Approved April 1, 1909.*

PRIVATE CHARITABLE CORPORATIONS.

R. L. CHAPTER 125, §§ 1–10.

OF CORPORATIONS FOR CHARITABLE AND OTHER PURPOSES.

For exemption of property from taxation see R. L. 12, p. 4, supra; for annual returns to the State Board of Charity, R. L. 84, § 14; 1903, 402; 1913, 82, pp. 127, 135, supra; supervision and annual inspection by the State Board of Charity, 1909, 379, p. 141, supra. For accounting of trustees of funds given to cities and towns for charitable purposes, see R. L. 37, § 13. For act establishing boards of commissioners of trust funds in cities and towns, see 1915, 282, Gen.

PURPOSE AND MANNER OF ORGANIZATION.

SECTION 1. Seven or more persons, a majority of whom are residents of this commonwealth, may form a corporation for any of the purposes named in the following section. Formation of corporation. 1857, 56, § 1. G. S. 32, § 1. 1869, 276. 1873, 176.

1874, 375, § 1. P. S. 115, § 1. 130 Mass., 325.

SECTION 2. Such corporation may be formed for any educational, charitable, benevolent or religious purpose; for the prosecution of any antiquarian, historical, literary, scientific, medical, artistic, monumental or musical purpose; for establishing and maintaining libraries; for supporting any missionary enterprise having for its object the dissemination of religious or educational instruction in foreign countries; for promoting temperance or morality Purposes of corporation. 1857, 56, § 1. G. S. 32, § 1. 1869, 276. 1873, 176. 1874, 375, § 2. 1875, 107, § 2. 1877, 204, § 1. 1878, 153. P. S. 115, § 2.

in this commonwealth; for encouraging athletic exercises or yachting; for encouraging the raising of choice breeds of domestic animals and poultry; for the association and accommodation of societies of Free Masons, Odd Fellows, Knights of Pythias or other charitable or social bodies of a like character and purpose; for the establishment and maintenance of places for reading rooms, libraries or social meetings.

Organization.
1857, 56, § 2.
G. S. 32, § 2.
1874, 375, §§ 3-5.
P. S. 115, §§ 3, 4.
1888, 177.
1890, 191.

Section 3. The corporation shall be formed in the manner prescribed in, and subject to the provisions of, sections fifteen to twenty, inclusive, of chapter one hundred and ten, except as follows:

The capital stock, if any, shall not exceed five hundred thousand dollars.

The agreement of association of a corporation which has no capital stock may omit the statement of the amount of the capital stock and the par value and number of its shares. The par value of the shares of its capital stock, if any, may be ten, twenty-five, fifty or one hundred dollars. The fee to be paid to the secretary of the commonwealth upon the filing of the certificate of organization shall be five dollars.

Investigation of proposed associates.
1890, 439, § 1.
1893, 226, § 1.

Section 4. Before making and issuing a certificate of incorporation to a corporation formed for any of the purposes described in section two, the secretary of the commonwealth may forward a statement to the mayor and aldermen of the city, except Boston, or to the selectmen of the town, in which such society is to have its principal office or rooms, and, if such office or rooms are to be in Boston, to the board of police for the city of Boston, giving a list of the names of the persons who have applied for incorporation, the purpose of the organization as stated by the applicants, the location proposed to be occupied and all other facts which may be stated in the application for incorporation. The mayor and aldermen, selectmen or board of police for the city of Boston, upon the receipt of

such statement, shall immediately make an investigation and ascertain whether any of the proposed incorporators have been engaged in the illegal selling of intoxicating liquor or in keeping places or tenements used for the purpose of illegal gaming, or whether they have been engaged in any other business or vocation prohibited by law, and shall forthwith report to the secretary of the commonwealth all the facts ascertained. If, in his opinion, it appears from said report or otherwise that the probable purpose of the formation of the proposed organization is to cover an illegal business, he shall refuse to issue a certificate of incorporation.

For reorganization of the Police Department of the city of Boston, see 1906, 291. For regulation of changes in location of charitable corporations see 1907, 337.

Charitable corporations or homes for children. 1901, 405.

SECTION 5. [*Amended by 1910, 181, infra.*] Before making and issuing a certificate for the incorporation of a charitable corporation or home for the care and support of minor children, the secretary of the commonwealth may also forward such statement as is described in the preceding section to the state board of charity, which shall immediately make an investigation as to the persons who have asked to be incorporated and as to the purposes of the incorporation, and any other material facts relative thereto, and shall forthwith report to the secretary of the commonwealth all the facts ascertained by it. If it appears to the secretary of the commonwealth from said report or otherwise that the probable purpose of the formation of the proposed corporation is to cover any illegal business, or that the persons asking for incorporation are not suitable persons to have charge of minor children, from lack of financial ability or from any other cause, he shall refuse to issue his certificate. If he refuses to issue his certificate, the persons asking to be incorporated may appeal to the superior court, which shall hear the case and finally determine whether or not the certificate of incorporation shall be issued.

[1910, 181.]

AN ACT RELATIVE TO THE INCORPORATION OF CHARITABLE CORPORATIONS.

R. L. 125, § 5, amended.

SECTION 1. Section five of chapter one hundred and twenty-five of the Revised Laws is hereby amended by striking out the words "or home for the care and support of minor children", in the second and third lines, by

striking out the word "may", in the third line, and inserting in place thereof the word: — shall, — by inserting after the word "thereto", in the eighth line, the words: — and shall give them a public hearing, notice of which shall be published once a week for three successive weeks in some paper published in the county in which the corporation is to have its principal office or rooms, and if said office or rooms are to be in Boston, in some Boston daily paper, the last publication to be at least three days before the day set for the hearing, — and by striking out the words "to have charge of minor children", in the thirteenth and fourteenth lines, so as to read as follows: —

Incorporation of charitable corporations.

Section 5. Before making and issuing a certificate for the incorporation of a charitable corporation the secretary of the commonwealth shall also forward such statement as is described in the preceding section to the state board of charity, which shall immediately make an investigation as to the persons who have asked to be incorporated and as to the purposes of the incorporation, and any other material facts relative thereto, and shall give them a public hearing, notice of which shall be published once a week for three successive weeks in some paper published in the county in which the corporation is to have its principal office or rooms, and if said office or rooms are to be in Boston, in some Boston daily paper, the last publication to be at least three days before the day set for the hearing, and shall forthwith report to the secretary of the commonwealth all the facts ascertained by it. If it appears to the secretary of the commonwealth from said report or otherwise that the probable purpose of the formation of the proposed corporation is to cover any illegal business, or that the persons asking for incorporation are not suitable persons, from lack of financial ability or from any other cause, he shall refuse to issue his certificate. If he refuses to issue his certificate, the persons asking to be incorporated may appeal to the superior court, which shall hear

the case and finally determine whether or not the certificate of incorporation shall be issued.

Section 2. This act shall take effect upon its passage. [*Approved March 7, 1910.*

By-laws. Officers. 1874, 375, § 6. 1875, 49, § 1. P. S. 115, §§ 5, 6.

Section 6. The corporation may prescribe by its by-laws the manner in which, and the officers and agents by whom, the purposes of its incorporation may be accomplished, and, instead of the directors and other officers to be chosen at the first meeting, it may have a board of other officers with the powers of directors, and presiding, financial and recording officers with the powers of president, treasurer, and clerk; and its certificate of organization may be made, signed and sworn to by its presiding, financial and recording officers and a majority of its other officers having the powers of directors; and the certificate issued by the secretary under the provisions of section twenty of chapter one hundred and ten shall be modified to correspond with the facts in each case.

Increase of capital. 1888, 177.

Section 7. Such corporation, if organized under general laws, at a meeting called for the purpose may increase the amount of its capital stock and the number of shares therein to an amount not exceeding five hundred thousand dollars.

Such corporations may hold real and personal estate, and gifts, etc. 1857, 56, § 4. G. S. 32, § 4. 1874, 375, § 7. P. S. 115, § 7. 1896, 96. 1897, 97. 1901, 96. 153 Mass. 78.

Section 8. Any corporation organized under general or special laws for any of the purposes mentioned in section two and under sections thirteen to sixteen, inclusive, may hold real and personal estate to an amount not exceeding one million five hundred thousand dollars, which shall be devoted to the purposes set forth in its charter or agreement of association, and it may receive and hold, in trust or otherwise, funds received by gift or bequest to be devoted by it to such purposes.

Change of purpose of incorporation. 1898, 504.

Section 9. Such corporation may, at a meeting duly called for the purpose, by vote of all its members, add to

or change the purpose for which it was incorporated, if the additional or new purpose is authorized by section two. The presiding, financial and recording officers and a majority of its other officers having the powers of directors shall forthwith make, sign and swear to a certificate setting forth such addition to or change of purpose, which, having been submitted to the commissioner of corporations and approved by him, shall thereupon be filed and recorded in the office of the secretary of the commonwealth.

Conferring degrees forbidden, unless, etc. 1883, 268.

Section 10. A corporation organized for medical purposes under the provisions of this chapter shall not confer degrees, or issue diplomas or certificates conferring or purporting to confer degrees, unless specially authorized thereto by the general court. An officer, agent or servant of such corporation or any other person who confers degrees, or signs, issues or authorizes the signing or issuing of any diploma or certificate purporting to confer any degree of medicine or surgery, in violation of the provisions of this section, shall be punished by a fine of not less than five hundred nor more than one thousand dollars.

GUARDIANSHIP OF MINORS.

R. L. CHAPTER 145. OF GUARDIANSHIP.

For provisions as to accounting of guardians, see R. L. 150. For guardianship of minors in custody of the Trustees of Massachusetts Training Schools, see 1915, 113, § 3, (Gen.) p. 225, supra.

Jurisdiction.

Appointment of guardians. C. L. 1, § 2. 1692–3, 46, § 2. 1776–7, 20. 1783, 38, § 1. 1817, 190, § 1. R. S. 79, § 1. G. S. 109, § 1. P. S. 139, § 1.

Section 1. The probate court may, if it appears necessary or convenient, appoint guardians of minors and others who are inhabitants of or residents in the county or who reside out of this commonwealth and have estate within the county. 5 Pick. 370. 128 Mass. 587.

Of Minors.

Same subject. 1752–3, 12, § 6. 1783, 38, § 1. R. S. 79, § 2. G. S. 109, § 2. P. S. 139, § 2. 154 Mass. 378.

Section 2. If a minor is under the age of fourteen years, the probate court may nominate and appoint his guardian. If he is above that age, he may nominate his own guardian, who, if approved by the court, shall be

appointed accordingly. If the person nominated is not approved by the court, or if the minor resides out of the commonwealth, or, after being cited, neglects to nominate a suitable person, the court may nominate and appoint his guardian in the same manner as if he were under the age of fourteen years.

Appointment of guardians. 1752–3, 12, § 7. 1783, 38, § 1. R. S. 79, § 3. 1837, 171, § 2. G. S. 109, § 3.

Section 3. The nomination of a guardian by a minor above the age of fourteen years may be made before a justice of the peace, special commissioner or a city or town clerk, who shall certify the fact to the probate court.

P. S. 139, § 3. 1899, 178, § 2.

Power of guardian of minor. C. L. 211, § 4. R. S. 79, § 4. G. S. 109, § 4. 1871, 116. 1873, 367. 1880, 66. P. S. 139, § 4. 149 Mass. 57.

Section 4. [*Amended by 1902, 474; 1904, 163, infra.*] The guardian of a minor, unless sooner discharged according to law, shall continue in office until the minor arrives at the age of twenty-one years, and he shall have the custody and tuition of his ward and the care and management of all his estate, except that the father of the minor, if living, and in case of his death, the mother, they being, respectively, competent to transact their own business, shall be entitled to the custody of the person of the minor and to the care of his education; but the probate court may order that the guardian shall have such custody, if, upon a hearing and after such notice to the parents or surviving parent as it may order, it finds such parents or parent to be unfit to have such custody, or if it finds one of them unfit therefor, and the other files in such court his or her consent in writing to such order.

[1902, 474.]

AN ACT RELATIVE TO THE CARE AND CUSTODY OF MINORS.

[*Superseded by 1904, 163, infra.*]

R. L. 145, § 4, amended.

Section four of chapter one hundred and forty-five of the Revised Laws is hereby amended by striking out the word "father", in the fifth line, and inserting in place thereof the word: — parents, — by inserting after the word "minor", in the same line, the word: — jointly, — by striking out the word "his", in the same line, and inserting in place thereof the word: — the, — by inserting after the word "death", in the same line, the words: — of either, — and by striking out the word "mother", in the sixth line, and inserting in place thereof the words: — surviving parent, — so as to read as follows: — *Section 4.* The guardian of a minor, unless sooner discharged according to law, shall continue in office until the minor arrives at the age of twenty-one years, and he shall have the custody and tuition of his ward and the care and management of all his estate, except that the parents of the minor, jointly, if living, and in case of the death of either, the surviving parent, they being, respectively, competent to transact their own business, shall be entitled to the custody of the person of the minor and to the care of his education; but the probate court may order that the guardian shall have such custody, if, upon a hearing and after such notice to the parents or surviving parent as it may order, it finds such parents or parent to be unfit to have such custody, or if it finds one of them unfit therefor, and the other files in such court his or her consent in writing to such order. [*Approved June 12, 1902.*

Care and custody of minors.

[1904, 163.]

AN ACT RELATIVE TO THE CUSTODY OF MINOR CHILDREN.

R. L. 145, § 4, etc., amended.

SECTION 1. Section four of chapter one hundred and forty-five of the Revised Laws, as amended by chapter four hundred and seventy-four of the acts of the year nineteen hundred and two, is hereby further amended by inserting after the word "may", in the eleventh line, the words: — upon the consent in writing of the parents, or surviving parent, — and by inserting after the word "custody", in the twelfth line, the words: — and may so order, — so as to read as follows: — *Section 4.* The guardian of a minor, unless sooner discharged according to law, shall continue in office until the minor arrives at the age of twenty-one years, and he shall have the custody and tuition of his ward and the care and management of all his estate, except that the parents of the minor, jointly, if living, and in case of the death of either, the surviving parent, they being, respectively, competent to transact their own business, shall be entitled to the custody of the person of the minor and to the care of his education; but the probate court may, upon the consent in writing of the parents, or surviving parent, order that the guardian shall have such custody; and may so order if, upon a hearing and after such notice to the parents or surviving parent as it may order, it finds such parents or parent to be unfit to have such custody, or if it finds one of them unfit therefor, and the other files in such court his or her consent in writing to such order.

Care and custody of minors.

SECTION 2. This act shall take effect upon its passage. [*Approved March 19, 1904.*

Appointment of testamentary guardian. R. S. 79, § 6. G. S. 109, § 5. 1877, 128. P. S. 139, § 5. 1898, 138.

SECTION 5. A father, or, if he has died without exercising the power, a mother may by his or her last will in writing appoint, subject to the approval of the probate court, a guardian for his or her child, whether born at the

time of making the will or afterward, to continue during the minority of the child or for a less time. Such testamentary guardian shall have the same powers and perform the same duties, relative to the person and estate of the ward, as a guardian appointed by the probate court. 8 Met. 127. 9 Allen, 518.

Temporary Guardians.

Section 20. [*Superseded by 1909, 504, § 100, repealed by 1909, 504, § 107, infra.*] Upon the petition of the mayor of a city, the selectmen of a town, the overseers of the poor of a city or town or other person in interest, the judge of the probate court may, after giving due notice according to the rules of the probate court, appoint a temporary guardian of a minor, insane person or spendthrift and may, with or without notice, remove or discharge him or terminate the trust. If the court finds that the welfare of such minor requires the immediate appointment of a temporary guardian of his person, such appointment may be made without notice. A temporary guardian shall proceed and continue in the execution of his duties, notwithstanding an appeal from the decree appointing him, until it is otherwise ordered by the supreme judicial court, or until the appointment of a permanent guardian, or until his trust is otherwise legally terminated. Temporary guardians, appointment of. 1878, 230. P. S. 139, § 6. 1897, 135, § 1. 1900, 345, §§ 1, 3. 1901, 213, 523.

[1909, 504, § 100.]

An Act to revise and codify the laws relating to insane persons.

Appointment of temporary guardian.

Section 100. Upon the petition of the mayor of a city, the selectmen of a town, the overseers of the poor of a city or town, the state board of insanity, or other person in interest, the court may, if it finds that the welfare of a minor, insane person, or spendthrift requires the immediate appointment of a temporary guardian of his person and estate, appoint a temporary guardian of such minor, insane person, or spendthrift, with or without notice, and may in like manner remove or discharge him or terminate the trust. A temporary guardian may proceed and continue in the execution of his duties, notwithstanding an appeal from the decree appointing him, until it is otherwise ordered by the supreme judicial court, or until the appointment of a permanent guardian, or until the trust is otherwise legally terminated. [*Approved June 16, 1909.* Temporary guardian, appointment of. 1878, 230. P. S. 139, § 6. 1897, 135, § 1. 1900, 345, §§ 1, 3. 1901, 213, 523. 179 Mass. 133. R. L. 145, § 20.

[1909, 504, § 107.]

Repeal.

Section 107. Sections forty-two, forty-three and forty-four of chapter eighty-five, chapter eighty-seven and amendments thereof, section six of chapter one hundred and forty-five as amended by section one of chapter one hundred and sixty-nine of the acts of the year nineteen hundred and seven, section twenty of chapter one hundred and forty-five, section thirteen of chapter one hundred and forty-six, sections eleven and twelve of chapter two hundred and nineteen as amended by chapter two hundred and fifty-seven of the acts of the year nineteen hundred and four, section sixteen of said chapter two hundred and nineteen, section one hundred and one of chapter two hundred and twenty-five as amended by section one of chapter four hundred and seventy-two of the acts of the year nineteen hundred and six, and sections one hundred and two and one hundred and three of chapter two hundred and twenty-five of the Revised Laws; chapter five hundred and forty-two of the acts of the year nineteen hundred and two; chapters three hundred and twenty-one, four hundred and four hundred and ten of the acts of the year nineteen hundred and three; chapters two hundred and eighty-two, three hundred and fifty-four and four hundred of the acts of the year nineteen hundred and five; chapters three hundred and nine, three hundred and thirteen, three hundred and sixteen and sections one, two, three, four, five, six, seven, eight, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of chapter five hundred and eight of the acts of the year nineteen hundred and six; chapters four hundred and thirty-two and four hundred and eighty-nine of the acts of the year nineteen hundred and seven; and sections one, two and four of chapter six hundred and thirteen, and chapter six hundred and twenty-nine of the acts of the year nineteen hundred and eight, and all acts and parts of acts inconsistent herewith, are hereby repealed. [*Approved June 16, 1909.*

Temporary guardian, powers and duties of. 1878, 230. P. S. 139, § 6. 1897, 135, § 2. 1900, 345, §§ 2, 5.

Section 21. Such temporary guardian shall, until otherwise ordered, or until his removal or the appointment of a permanent guardian, have the same powers and perform the same duties relative to the person and estate of the ward as permanent guardians, and may be decreed the custody of the persons of minors, if the court finds the parent or parents unfit therefor or if it finds one of them unfit therefor and the other consents to such custody by the temporary guardian or if a temporary guardian is serving or appointed to serve in place of a temporary guardian removed. If such temporary guardian of a minor is appointed pending proceedings for an order for custody under the provisions of section four or for the removal of a guardian of a minor, he shall have the sole custody and control of the ward during the pendency of such proceedings. Upon the termination of his powers, a temporary guardian shall deliver to the guardian or such person as is otherwise lawfully authorized to receive it the estate of the ward in his hands. A guardian may be admitted to prosecute an action commenced by a temporary guardian.

Removals, Resignations, etc.

Removal, etc., of guardian and appointment of successor. 1789, 46. 1817, 190, § 36. R. S. 79, § 22. G. S. 109, § 24. P. S. 139, § 21. 4 Pick. 283. 8 Pick. 143. 4 Gray, 63. 105 Mass. 501. 128 Mass. 587. 155 Mass. 433.

Section 22. If a guardian who has been appointed either by a testator or by the court becomes insane or otherwise incapable of performing his trust or is unsuitable therefor, the probate court, after notice to him and to all other persons interested, may remove him. Upon the request of a guardian, the probate court may in its discretion, allow him to resign his trust. Upon such removal or resignation, and upon the death of a guardian, another may be appointed in his stead.

Guardians ad Litem and Next Friend.

Appointment of guardian ad litem. 1896, 456, § 1.

Section 23. [*Amended by 1906, 452, § 2, infra.*] If, under the terms of a written instrument or otherwise, a minor or person under disability, or a person or persons not ascertained or not in being, may be or may become interested in any property real or personal, the court in which any action,

petition or proceeding of any kind relative to or affecting any such estate is pending, except the court of land registration, may, upon the representation of any party thereto, or of any person interested, appoint a suitable person to appear and act therein as guardian ad litem or next friend of such minor or person or persons under disability or not ascertained or not in being; and a judgment, order or decree in such proceedings, made after such appointment, shall be conclusive upon all persons for whom such guardian ad litem or next friend was appointed.

[1906, 452, § 2.]

R. L. 145, § 23, amended.

Section 2. Section twenty-three of chapter one hundred and forty-five of the Revised Laws is hereby amended by striking out the words "except the court of land registration", in the sixth line, so as to read as follows: —

Appointment of guardian, etc.

Section 23. If, under the terms of a written instrument or otherwise, a minor or person under disability, or a person or persons not ascertained or not in being, may be or may become interested in any property real or personal, the court in which any action, petition or proceeding of any kind relative to or affecting any such estate is pending may, upon the representation of any party thereto, or of any person interested, appoint a suitable person to appear and act therein as guardian ad litem or next friend of such minor or person or persons under disability or not ascertained or not in being; and a judgment, order or decree in such proceedings, made after such appointment, shall be conclusive upon all persons for whom such guardian ad litem or next friend was appointed. [*Approved June 5, 1906.*

Cited. *Elder* v. *Adams* (1902), 180 Mass. 303; *McIsaac* v. *Adams* (1906), 190 Mass. 117.

Cost of appearance. 1896, 456, § 2.

Section 24. The reasonable expenses of such guardian ad litem or next friend, including his compensation and that of his counsel, shall be determined by the court and paid as it may order, either out of the estate or by the plaintiff or petitioner. If such expenses are to be paid by the plaintiff or petitioner execution therefor may issue in the name of the guardian ad litem or next friend.

General Powers and Duties of Guardians.

Section 25. A guardian shall pay all just debts which are due from his ward out of the personal property, if sufficient, and, if not, out of the real property, upon obtaining a license for the sale thereof as provided in chapter one hundred and forty-six. He shall settle all accounts of his ward and demand, sue for and receive all debts due to him or, with the approval of the probate court, may compromise the same and give a discharge to the debtor. He shall appear for and represent his ward in all actions, suits and proceedings, unless another person is appointed for that purpose as guardian ad litem or next friend.

Powers and duties of guardians.
1726–7, 12, § 5.
1731–2, 14, § 5.
1737–8, 9, § 3.
1783, 38, § 4.
1806, 102.
R. S. 79, § 17.
G. S. 109, § 18.
P. S. 139, § 29.
13 Mass. 237.
1 Pick. 314.
5 Pick. 431.
19 Pick. 346, 506.
8 Cush. 587.
12 Cush. 324.
9 Gray, 84, 255.
5 Allen, 464.
10 Allen, 463.
Cited.

97 Mass. 508.
100 Mass. 239.
101 Mass. 60.
106 Mass. 501.
111 Mass. 265.
133 Mass. 531.
155 Mass. 136.
168 Mass. 215, 573.
170 Mass. 499.
180 Mass. 303.
182 Mass. 332.
190 Mass. 117.

See 1911, 147, infra.

[1911, 147.]

An Act relative to suits against executors, administrators, trustees and guardians.

Section 1. An action founded on any contract heretofore made or act heretofore done by any person acting as the executor, administrator or other legal representative of the estate of a deceased person, or by any person acting as trustee or guardian, shall be brought within two years after the passage hereof; and if founded upon any contract made or act done subsequent to the passage of this act, such action shall be brought within two years after the right of action accrues: *provided, however*, that nothing herein shall be construed as extending the limitation of time within which an action must be brought on any cause of action now existing, or as applying to actions upon probate bonds, or to actions in favor of the estate of which such person shall have been such legal representative, or to actions in favor of a beneficiary or ward, or to actions brought by the commonwealth.

Suits against executors, etc.

Proviso.

Section 2. This act shall take effect upon its passage. [*Approved March 17, 1911.*

Same subject.
1726–7, 12, § 4.
1731–2, 14, § 4.
1737–8, 9, § 3.
1783, 38, § 4.
1806, 102.
R. S. 79, § 18.
G. S. 109, § 19.
P. S. 139, § 30.
20 Pick. 116.
4 Allen, 426.
8 Allen, 427.
10 Allen, 59.
109 Mass. 252.
120 Mass. 487.
160 Mass. 233.

Section 26. He shall manage the estate of his ward frugally and without waste, and shall apply the income and profits thereof, so far as may be necessary, to the comfortable and suitable maintenance and support of the ward and his family. If the income and profits are insufficient for that purpose, the guardian may sell the real property upon obtaining a license therefor, and shall apply the proceeds of such sale, so far as may be necessary, for the maintenance and support of the ward and his family.

See 1908, 75, infra.

Cited. 190 Mass. 459.

[1908, 75.]

An Act relative to the property of persons under guardianship as spendthrifts.

Certain property of a spendthrift may be transferred to the wife, etc.
R. L. 145, § 10.

Section 1. Any probate court having jurisdiction of the property of a person who is under guardianship as a spendthrift may, on petition of such ward, and after such notice as the court may determine, authorize the guardian of the ward to pay, or to convey, such portion of the ward's real or personal estate, either principal or income, as the court may designate, to the wife or any child, or children, or grandchildren, of the ward; and such property, when so paid or conveyed, shall become the property of the donee or grantee.

Section 2. This act shall take effect upon its passage. [*Approved February 10, 1908.*

Same subject.
1727, 5.
1783, 41, § 1.
R. S. 79, § 19.
1852, 248.

Section 27. A guardian may, except when he has interest adverse to that of the ward in the estate to be divided, make partition of his ward's real property if

lying in common and undivided, either upon petition for partition or otherwise, as fully and in like manner as the ward could do if he were under no disability, may assign and set out dower in his ward's estate to any widow entitled thereto, and may appoint an appraiser of real property on an execution either against or in favor of his ward.

G. S. 109, § 20. P. S. 139, § 31. 1 Pick. 221, 314.

Support of minor child by parents. 1891, 358.

Section 28. The probate court may, upon the petition of a guardian entitled to the custody of his minor ward, during the lifetime of either or both of his parents, and after notice to all parties interested, order and require said parents or either of them to contribute to the support and maintenance of such minor in such amounts and at such times as it determines are just and reasonable. Such parent or parents may be required to give a bond conditioned to comply with such order and payable to the judge of said court and his successors in such sum and with such sureties as the court orders. The court may from time to time, upon application of either party, revise or alter such order or make such new order or decree as the circumstances of the parents or the benefit of the minor may require.

For further provisions as to support of children, see 1906, 501, p. 118; 1909, 180, p. 118; 1911, 456, p. 121, supra.

Application of minor's property to his support during father's life. R. S. 78, § 2. 1844, 88. G. S. 109, § 21. P. S. 139, § 32. 2 Mass. 415. 4 Mass. 97. 8 Cush. 587. 164 Mass. 422.

Section 29. If a minor, who has a father living, has property sufficient for his maintenance and education in a manner more expensive than the father can reasonably afford, regard being had to the situation of the father's family and to all the circumstances of the case, the probate court may order that such expenses of the maintenance and education of such child as it determines are reasonable may be defrayed out of his own property; and if necessary, his real property upon obtaining license therefor may be sold for that purpose by the guardian.

Support of children of insane person under guardianship.

Section 30. The probate court may, upon the application of the guardian of an insane person or of a child or the guardian of a child of an insane person, after notice to

1880, 166.
P. S. 139, § 33.

all other persons interested, authorize and require the guardian of such insane person to apply to the maintenance and education of any child or children of said ward such portion as the court orders of the income of the ward, which is not required for his maintenance and support.

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Guardians may obtain releases of dower, etc., in ward's real property.
1869, 219, § 1.
P. S. 139, § 35.

Section 32. The probate court may, after notice to all persons interested, authorize guardians to obtain by purchase the release and conveyance of a right of dower or of curtesy, homestead, life estate, estate for years or other interest, vested or contingent, held or owned by any person in or to any real property of their wards, and to make any contract relative to such rights or interests which may be necessary to effect such purchase.

Election or waiver by guardian.
1871, 97.
P. S. 139, § 36.
102 Mass. 568.
153 Mass. 137.

Section 33. If property, rights or benefits given by will or by provision of law depend upon the election, waiver or other act of a person incompetent by reason of insanity or minority to exercise or perform the same, his guardian may make such election or waiver or perform such act.

Appraisal of estate.
1817, 190, § 34.
R. S. 79, § 20.
G. S. 109, § 17.
P. S. 139, § 37.

Section 34. Upon taking an inventory, the estate and effects comprised therein shall be appraised by three appraisers, who shall be appointed and sworn as is required by law relative to the inventory of the estate of a deceased person.

Sale of personal property of ward.
1817, 190, § 35.
1820, 54, § 3.
R. S. 79, § 21.
G. S. 109, § 22.
P. S. 139, § 38.
2 Pick. 243.
8 Allen, 15.
120 Mass. 102.
149 Mass. 375.
168 Mass. 576.
190 Mass. 27.

Section 35. The probate court may, upon the application of a guardian or of any person interested in the estate of a ward, after notice to all other persons interested, authorize or require the guardian to sell and transfer any personal property held by him as guardian and to invest the proceeds thereof and all other money in his hands in such manner as may be most for the interest of all concerned. Said court may make such further order and give such directions as the case may require for the management, investment and disposition of the estate in the hands of the guardian.

Transfer of estate of ward who has no guardian in this state. 1866, 122, § 2. 1877, 127. P. S. 139, § 40. 183 Mass. 81.

SECTION 36. An executor, administrator or trustee who has in his hands personal property belonging to a person under guardianship residing out of this commonwealth and having no guardian appointed therein may pay over and transfer the whole or any part of such personal property to a guardian, trustee, or committee appointed by competent authority in the state or country in which such person resides, upon the terms and in the manner required by the provisions of section twenty-five of chapter one hundred and forty-six.

Effect of marriage of female ward. R. S. 79, § 23. G. S. 109, § 26. P. S. 139, § 41. 15 Gray, 445.

SECTION 37. The marriage of a female under guardianship as a minor shall deprive her guardian of all right to her custody and education, but not of his right to the possession of her property.

Recovery of property of ward which has been embezzled, etc. 1726–7, 12, §§ 2, 3. 1731–2, 14, §§ 2, 3. 1737–8, 9, § 2. 1783, 38, § 3. R. S. 79, § 27. 1857, 71, § 2. G. S. 109, § 30. P. S. 139, § 42. 11 Gray, 210.

SECTION 38. Upon complaint to the probate court by a guardian, ward, creditor or other person interested in the estate of a ward or by a person having claims thereto in expectancy as heir or otherwise, against any one suspected of having fraudulently received, concealed, embezzled or conveyed away any of the property, real or personal, of the ward, the court may cite and examine such suspected person, although he is the guardian, in the manner and subject to the penalties provided relative to persons suspected of fraudulently receiving, concealing or embezzling the estate of a deceased person.

Provisions of this chapter not to prevent appointment of guardian ad litem or next friend. R. S. 79, § 8. G. S. 109, § 7. P. S. 139, § 43. 1896, 456, § 3. 8 Cush. 507. 111 Mass. 265. 116 Mass. 377.

SECTION 39. The provisions of this chapter shall not affect the power of a court or trial justice to appoint a guardian to defend the interests of a minor impleaded in such court or before such trial justice, or interested in a suit or matter there pending, nor the power of such court or justice to appoint or allow a person, as next friend for a minor, to commence, prosecute or defend a suit in his behalf.

Cited. 180 Mass. 303.

ADOPTION OF CHILDREN.

R. L. CHAPTER 154.

OF THE ADOPTION OF CHILDREN AND CHANGE OF NAMES.

Sections 1–11. — Adoption of Children.
Sections 12–14. — Change of Names.

Adoption of Children.

Who may petition for leave to adopt a child.
1851, 324, §§ 1, 4.
G. S. 110, § 1.
1871, 310, § 1.
1876, 213, §§ 1, 10, 11.
P. S. 148, § 1.
124 Mass. 592.
137 Mass. 346.
171 Mass. 99.
183 Mass. 405.

Section 1. A person of full age may petition the probate court in the county in which he resides for leave to adopt as his child another person younger than himself, unless such other person is his or her wife or husband, or brother, sister, uncle or aunt, of the whole or half blood. If the petitioner has a husband or wife living, who is competent to join in the petition, such husband or wife shall join therein, and upon adoption the child shall in law be the child of both. If a person who is not an inhabitant of this commonwealth desires to adopt a child who resides here, the petition may be made to the probate court in the county in which the child resides.[1]

Written consent of certain persons required.
1851, 324, §§ 2, 3.
1852, 262.
1853, 31.
G. S. 110, §§ 2, 5.
1871, 310, §§ 2, 4.
1876, 213, § 2.
P. S. 148, § 2.
154 Mass. 378.
195 Mass. 197.

Section 2. [*Amended by 1902, 544; 1904, 302, infra.*] A decree for such adoption shall not be made, except as hereinafter provided, without the written consent of the child, if it is above the age of fourteen years; of her husband, if she is a married woman; of the lawful parents, or surviving parent; of the parent having the lawful custody of the child, if the parents are divorced or are living separately; of the guardian of the child, if any; of the mother only of the child, if illegitimate; or of the person substituted for any of the above named by the provisions of this chapter. The fact of illegitimacy shall in no case appear upon the record. A person whose consent is hereby required shall not thereby be debarred from being the adopting parent. If the child has been previously adopted, the consent of the previous adopting parent shall also be required.

[1] Under the provisions of § 1, there can be no such thing as an adopted child of one spouse alone where at the time of the adoption both the husband and wife were living and were competent to join in the petition. *Davis* v. *McGraw* (1910), 206 Mass. 294. Consequently, a decree of a probate court declaring the adoption of a child by a sole petitioner, who represented himself to be a widower but who had a wife living competent to join in the petition, is absolutely void, because under this section the court has no jurisdiction to grant such a petition. *Idem.* A decree of adoption of a child in the custody of the State Board of Charity, by reason of commitment under R. L. 83, § 37, does not operate to remove or impair such custody. *Purinton* v. *Jamrock* (1907), 195 Mass. 197.

[1902, 544, § 22.]

AN ACT TO AMEND THE REVISED LAWS AND TO SUPPLY CERTAIN OMISSIONS THEREFROM.

SECTION 22. [*Amended by 1904, 302, infra.*] Section two of chapter one hundred and fifty-four of the Revised Laws is hereby amended by striking out the words "The fact of illegitimacy shall in no case appear upon the record", in the ninth and tenth lines, so as to read as follows: — *Section 2.* A decree for such adoption shall not be made, except as hereinafter provided, without the written consent of the child, if it is above the age of fourteen years; of her husband, if she is a married woman; of the lawful parents, or surviving parent; of the parent having the lawful custody of the child, if the parents are divorced or are living separately; of the guardian of the child, if any; of the mother only of the child, if illegitimate; or of the person substituted for any of the above named by the provisions of this chapter. A person whose consent is hereby required shall not thereby be debarred from being the adopting parent. If the child has been previously adopted, the consent of the previous adopting parent shall also be required. [*Approved June 28, 1902.*

R. L. 154, § 2, amended.

Written consent required before decree for adoption is made, etc.

[1904, 302.]

AN ACT RELATIVE TO PROCEDURE IN THE ADOPTION OF CHILDREN.

Section two of chapter one hundred and fifty-four of the Revised Laws, as amended by section twenty-two of chapter five hundred and forty-four of the acts of the year nineteen hundred and two, is hereby further amended by inserting after the word "chapter", in the eleventh line, the words: — Illegitimacy shall in no case be expressly averred upon the record, — so as to read as follows: — *Section 2.* A decree for such adoption shall not be made, except as hereinafter provided, without the written consent of the child, if it is above the age of fourteen years; of her husband, if she is a married woman; of the lawful parents, or surviving parent; of the parent having the lawful custody of the child, if the parents are divorced or are living separately; of the guardian of the child, if any; of the mother only of the child, if illegitimate; or of the person substituted for any of the above named by the provisions of this chapter. Illegitimacy shall in no case be expressly averred upon the record. A person whose consent is hereby required shall not thereby be debarred from being the adopting parent. If the child has been previ-

R. L. 154, § 2, etc., amended.

Written consent required before decree for adoption is made.

Illegitimacy not to be expressly averred upon record, etc.

ously adopted, the consent of the previous adopting parent shall also be required.[1] [*Approved May 6, 1904.*

Consent not required, when.
1853, 402.
1859, 61, § 1.
G. S. 110, § 3.
1871, 310, §§ 3, 6.
1872, 311, § 1.
1876, 213, §§ 3, 4.
P. S. 148, § 3.
1886, 101, § 4.
1898, 433, § 24.
137 Mass. 346.
183 Mass. 405.
195 Mass. 197.

Section 3. [*Amended by 1907, 405, infra.*] The consent of the persons named in the preceding section, other than the child or her husband, if any, shall not be required if the person to be adopted is of full age, nor shall the consent of any such person other than the child be required if such person is adjudged by the court hearing the petition to be hopelessly insane, or is imprisoned in the state prison or in a house of correction in this commonwealth under sentence for a term of which more than three years remain unexpired at the date of the petition; or if he has wilfully deserted and neglected to provide proper care and maintenance for such child for two years last preceding the date of the petition; or if he has suffered such child to be supported for more than two years continuously, prior to the petition, by an incorporated charitable institution or as a pauper by a city or town or by the commonwealth; or if he has been sentenced to imprisonment for drunkenness upon a third conviction within one year and neglects to provide proper care and maintenance for such child; or if such person has been convicted of being a common night walker or a lewd, wanton and lascivious person, and neglects to provide proper care and maintenance for such child. A giving up in writing of a child, for the purpose of adoption, to an incorporated charitable institution shall operate as a consent to any adoption subsequently approved by such institution. Notice of the petition shall be given to the state board of charity, if the child is supported as a pauper by a city or town or by the commonwealth.[2]

[1907, 405.]

An Act relative to the adoption of children and the change of name.

R. L. 154, § 3, amended.

Section 1. Section three of chapter one hundred and fifty-four of the Revised Laws is hereby amended by adding at the end thereof the words: — and if the child is supported by a city or town, notice shall also be given to the overseers of the poor thereof, and in the city of Boston said notice shall be given both to the overseers of the poor and to the trustees for children, — so as to read as follows: — *Section 3.* The consent of the persons named in the

Consent not required in

[1] The entry "child of M. J. single woman" is not a violation of chapter 302, Acts of 1904, which provides that "Illegitimacy shall in no case be expressly averred upon the record." *Purinton* v. *Jamrock* (1907), 195 Mass. 197.

[2] Where a child is committed to the State Board of Charity under the provisions of R. L. 83, § 37, because of the neglect, crime, drunkenness or other vice of its parent, and the said child is supported continuously for more than two years by the Commonwealth, the parent, who has taken no appeal from the judgment committing the child, and has never sought to regain custody of the child by application to the said Board under 1903, 334, § 3, "suffers" such child to be supported for more than two years as a pauper, within the meaning of R. L. 154, § 3. *Purinton* v. *Jamrock*, *supra*.

preceding section, other than the child or her husband, if any, shall not be required if the person to be adopted is of full age, nor shall the consent of any such person other than the child be required if such person is adjudged by the court hearing the petition to be hopelessly insane, or is imprisoned in the state prison or in a house of correction in this commonwealth under sentence for a term of which more than three years remain unexpired at the date of the petition; or if he has wilfully deserted and neglected to provide proper care and maintenance for such child for two years last preceding the date of the petition; or if he has suffered such child to be supported for more than two years continuously, prior to the petition, by an incorporated charitable institution or as a pauper by a city or town or by the commonwealth; or if he has been sentenced to imprisonment for drunkenness upon a third conviction within one year and neglects to provide proper care and maintenance for such child; or if such person has been convicted of being a common night walker or a lewd, wanton and lascivious person, and neglects to provide proper care and maintenance for such child. A giving up in writing of a child, for the purpose of adoption, to an incorporated charitable institution shall operate as a consent to any adoption subsequently approved by such institution. Notice of the petition shall be given to the state board of charity, if the child is supported as a pauper by a city or town or by the commonwealth, and if the child is supported by a city or town, notice shall also be given to the overseers of the poor thereof, and in the city of Boston said notice shall be given both to the overseers of the poor and to the trustees for children.

certain cases of change of names, etc.

Section 2. This act shall take effect upon its passage.[1]

[*Approved May 14, 1907.*

Section 4. [*Amended by 1915, 53, Gen., infra.*] If the written consent required by the provisions of the two preceding sections is not submitted to the court with the petition, the court shall order notice by personal service on the parties of a copy of the petition and order thereon, or, if they are not

Notice to be given, when. 1859, 61, § 2. G. S. 110, § 4. 1864, 213, § 1. 1871, 310, § 5.

[1] See note 2, p. 272.

1872, 311, § 3. 1876, 213, § 5. P. S. 148, § 4. 137 Mass. 84, 346. 183 Mass. 405.

found within this commonwealth, by publication of the petition and order once in each of three successive weeks in such newspaper as the court orders, the last publication to be seven days at least before the time appointed for the hearing, and the court may require additional notice and consent.[1]

[1915, 53, Gen.]

An Act relative to notice of petitions for adoption in certain cases.

R. L. 154, § 4, amended.

Section 1. Section four of chapter one hundred and fifty-four of the Revised Laws is hereby amended by adding at the end thereof the words: — But if such child is of unknown parentage and is a foundling, publication as herein set forth shall not be required; but notice of the petition shall be given to the state board of charity, — so as to read as follows: — *Section 4.* If the written consent required by the provisions of the two preceding sections is not submitted to the court with the petition, the court shall order notice by personal service on the parties of a copy of the petition and order thereon, or, if they are not found within this commonwealth, by publication of the petition and order once in each of three successive weeks in such newspaper as the court orders, the last publication to be seven days at least before the time appointed for the hearing, and the court may require additional notice and consent. But if such child is of unknown parentage and is a foundling, publication as herein set forth shall not be required; but notice of the petition shall be given to the state board of charity.

Publication not required in certain cases.

Section 2. This act shall take effect upon its passage. [*Approved March 12, 1915.*

Persons not appearing, to be held to

Section 5. If, after such notice, a person whose consent is required does not appear and object to the adoption,

[1] Where a mother had surrendered her child to a children's home for adoption, it was held that the court was not deprived of jurisdiction to authorize the child's adoption by reason of the fact that the child's father was a resident of Scotland and did not consent, notice of the adoption having been properly given him by publication. *Stearns* v. *Allen* (1903), 183 Mass. 97.

the court may act upon the petition without his consent, subject to his right of appeal, or it may appoint a guardian ad litem with power to give or withhold consent.

consent.
1851, 324, § 2.
1853, 31.
G. S. 110, § 2.

1864, 213, § 3.
1876, 213, § 6.
P. S. 148, § 5.
115 Mass. 262.
137 Mass. 346.
183 Mass. 406.

Section 6. If the court is satisfied of the identity and relations of the persons, and that the petitioner is of sufficient ability to bring up the child and provide suitable support and education for it, and that the child should be adopted, it shall make a decree, by which, except as regards succession to property, all rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between the child and the petitioner and his kindred, and shall, except as regards marriage, incest or cohabitation, terminate between the child so adopted and his natural parents and kindred or any previous adopting parent; but such decree shall not place the adopting parent or adopted child in any relation to any person, except each other, different from that before existing as regards marriage, rape, incest or other sexual crime committed by either or both. The court may also decree such change of name as the petitioner may request. If the person so adopted is of full age, he shall not be freed by such decree from the obligations imposed by the provisions of section ten of chapter eighty-one.

Decree of court and its effect.
1851, 324, §§ 5–7.
G. S. 110, §§ 6–8.
1871, 310, §§ 7–9.
1876, 213, §§ 7, 10.
P. S. 148, § 6.
140 Mass. 568.

Section 7. A person who is adopted in accordance with the provisions of this chapter shall take the same share of the property which the adopting parent could dispose of by will as he would have taken if born to such parent in lawful wedlock, and he shall stand in regard to the legal descendants, but to no other of the kindred of such adopting parent, in the same position as if so born to him. If the person adopted dies intestate, his property acquired by himself or by gift or inheritance from his adopting parent or from the kindred of such parent shall be distributed according to the provisions of chapters one hundred and thirty-three and one hundred and forty among the persons

Rights of adopted child as to succession to property.
1851, 324, § 6.
G. S. 110, § 7.
1871, 310, § 8.
1876, 213, § 8.
P. S. 148, § 7.
144 Mass. 441.
148 Mass. 619.
153 Mass. 525.
183 Mass. 406.
194 Mass. 545.

who would have been his kindred if he had been born to his adopting parent in lawful wedlock; and property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place. The apportionment and distribution shall be ascertained by the court. A person shall not by adoption lose his right to inherit from his natural parents or kindred.[1]

Rights of adopted child under wills, trusts, etc. 1876, 213, § 9. P. S. 148, § 8. 115 Mass. 262. 144 Mass. 441. 194 Mass. 545.

Section 8. The word "child", or its equivalent, in a grant, trust-settlement, entail, devise or bequest shall include a child adopted by the settlor, grantor or testator, unless the contrary plainly appears by the terms of the instrument; but if the settlor, grantor or testator is not himself the adopting parent, the child by adoption shall not have, under such instrument, the rights of a child born in lawful wedlock to the adopting parent, unless it plainly appears to have been the intention of the settlor, grantor or testator to include an adopted child.

— in this commonwealth of a child adopted in another state. 1876, 213, § 11. P. S. 148, § 9. 129 Mass. 243.

Section 9. An inhabitant of another state, adopted as a child in accordance with the laws thereof, shall upon proof of such fact be entitled in this commonwealth to the same rights of succession to property as he would have had in the state in which he was adopted, except so far as such rights are in conflict with the provisions of this chapter.

Effect of second adoption.

Section 10. If the child has been previously adopted, all the legal consequences of the former decree shall, upon

[1] Under the provisions of § 7, it is only as to the adopting parents and their legal descendants that an adoptive child acquires the rights of a child born to those parents in lawful wedlock. *Gammons* v. *Gammons* (1912), 212 Mass. 454. Consequently, under a will which contains certain bequests to a son of the testator and makes no mention of a child or issue of the son, an adopted child of the son takes nothing if the son dies before the testator. *Idem.* In like manner the adopted daughter of a deceased brother of a testator cannot share in a bequest to the heirs of the testator. *Brown* v. *Wright* (1907), 194 Mass. 540. Neither can such adoptive child take under the provisions of § 8, unless it plainly appears to have been the intention of the testator to include adopted children. *Wolcott* v. *Robinson* (1913), 214 Mass. 172. Because of the provision in § 7 that "a person shall not by adoption lose his right to inherit from his natural parents or kindred", an adopted child, who is at the same time grandson of the adopting father, cannot, under the provisions of that section, inherit the property of his grandfather in a twofold capacity as his son and as his grandson. *Delano* v. *Bruerton* (1889), 148 Mass. 619.

a subsequent adoption, determine, except so far as any interest in property may have vested in the adopted child, and a decree to that effect shall be entered on the records of the court. 1876, 213, § 13. P. S. 148, § 10.

Section 11. The supreme judicial court may allow a parent, who, upon a petition for adoption, had no personal notice of the proceedings before the decree, to appeal therefrom within one year after actual notice thereof, if he first makes oath that he was not, at the time of filing such petition, undergoing imprisonment as specified in section three or that, if so imprisoned, he has since been pardoned on the ground of innocence or has had his sentence reversed. Appeals. 1851, 324, § 8. 1859, 61, § 2. G. S. 110, §§ 9, 10. 1871, 310, § 10. 1876, 213, § 12. P. S. 148, § 11. 154 Mass. 574.

Change of Names.

Section 12. A petition for the change of name of a person may be heard by the probate court in the county in which the petitioner resides. No change of the name of a person, except upon the adoption of a child under the provisions of this chapter or upon the marriage or divorce of a woman, shall be lawful unless made by said court for a sufficient reason consistent with public interests and satisfactory to it. Petitions for change of name. 1851, 256, § 1. 1854, 24. G. S. 110, §§ 11, 13. P. S. 148, § 12.

Section 13. The court shall, before decreeing a change of name, require public notice of the petition to be given, and any person may be heard thereon. It shall also require public notice to be given of the change decreed, and on return of proof thereof may grant a certificate, under the seal of the court, of the name which the person is to bear and which shall thereafter be his legal name. Notice and certificate. 1851, 256, § 2. G. S. 110, § 12. P. S. 148, § 13.

Section 14. Each register of probate shall annually, in December, make a return to the secretary of the commonwealth of all changes of names made in the court of which he is register. Annual return of changes. 1851, 256, § 4. G. S. 110, § 14. P. S. 148, § 14. 1897, 89.

OF OFFICERS AND INMATES OF STATE INSTITUTIONS.

R. L. CHAPTER 225.

OF THE OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS, AND OF PARDONS.

Accounting for receipts and payment of expenses. 1864, 303, § 2. 1874, 385, § 23. P. S. 221, § 59. 1884, 255, § 29. 1887, 447, §§ 10, 11. 1898, 259, 277.

Section 56. [*Amended by 1914, 669, infra.*] The receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory prison for women and the state farm shall be paid into the treasury of the commonwealth monthly, and the receipts from the labor of prisoners in a jail or house of correction shall be paid into the county treasury monthly, and so much thereof as is necessary to pay the expense of maintaining the industries in said institutions shall be expended therefrom for that purpose; but not until schedules of such expenses have been sworn to by the warden or superintendent and approved by the prison commissioners. Receipts from any one of the institutions shall be applied to paying the bills of that institution only. The warden or superintendent of the state prison, Massachusetts reformatory, reformatory prison for women or state farm shall, as often as he has in his possession money to the amount of ten thousand dollars which he has received under the provisions of the thirteen preceding sections, pay it into the treasury of the commonwealth, and the master or keeper of a jail or house of correction shall, as often as he has in his possession such money to the amount of five thousand dollars, pay it into the county treasury.

[1914, 669.]

An Act relative to receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory for women and the state farm.

R. L. 225, § 56, amended.

Section 1. Section fifty-six of chapter two hundred and twenty-five of the Revised Laws is hereby amended by inserting after the word "commissioners", in the tenth line, the words: — Whenever in the opinion of the auditor of the commonwealth the accumulated funds in the treasury of the commonwealth from the receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory for women and the state farm, exceed the sums necessary to pay the expense of maintaining the industries by which they were produced, the auditor of the commonwealth shall direct that the surplus

be transferred from these accounts and used for the support of the several institutions wherein the industries are maintained, — so as to read as follows: — *Section 56.* The receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory prison for women and the state farm shall be paid into the treasury of the commonwealth monthly, and the receipts from the labor of prisoners in a jail or house of correction shall be paid into the county treasury monthly, and so much thereof as is necessary to pay the expense of maintaining the industries in said institutions shall be expended therefrom for that purpose; but not until schedules of such expenses have been sworn to by the warden or superintendent and approved by the prison commissioners. Whenever in the opinion of the auditor of the commonwealth the accumulated funds in the treasury of the commonwealth from the receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory for women and the state farm, exceed the sums necessary to pay the expense of maintaining the industries by which they were produced, the auditor of the commonwealth shall direct that the surplus be transferred from these accounts and used for the support of the several institutions wherein the industries are maintained. Receipts from any one of the institutions shall be applied to paying the bills of that institution only. The warden or superintendent of the state prison, Massachusetts reformatory, reformatory prison for women or state farm shall, as often as he has in his possession money to the amount of ten thousand dollars which he has received under the provisions of the thirteen preceding sections, pay it into the treasury of the commonwealth, and the master or keeper of a jail or house of correction shall, as often as he has in his possession such money to the amount of five thousand dollars, pay it into the county treasury.

Accounting for receipts and payment of expenses. 1864, 303, § 2. 1874, 385, § 23. P. S. 221, § 59. 1884, 255, § 29. 1887, 447, §§ 10, 11. 1898, 259, 277. R. L. 225, § 56.

Section 2. This act shall take effect upon its passage. [*Approved June 15, 1914.*

PRIVILEGES.

Locked letter box.
1878, 276.
1879, 294, § 12.
P. S. 222, § 7.

Section 71. Every inmate of a penal or reformatory institution shall be allowed to write letters to the principal officer or to any member of the supervising board thereof. A locked letter box, accessible to the inmates, shall be placed in each institution, in which they may deposit such letters, and such letters shall be duly delivered according to the address thereon. The keys of the boxes in the state prison, in the Massachusetts reformatory and in the reformatory prison for women shall be kept by the commissioners, and of those in each of the other institutions by the principal officer thereof.

Exercise of religious belief, etc.
1834, 151, § 16.
R. S. 143, § 40.
G. S. 178, § 40.
1875, 126, §§ 1, 2.
1879, 158, §§ 1, 2.
P. S. 222, §§ 8, 9.

Section 72. [*Amended by 1904, 363, § 1, infra.*] An inmate of any prison or other place of confinement or public charitable or reformatory institution shall not be denied the free exercise of his religious belief and the liberty of worshipping God according to the dictates of his conscience, in the place where he is confined; and he may, in illness, upon request to the warden, keeper or master, receive the visits of any clergyman whom he may wish. The officers and boards of officers who have the management and direction of such institutions shall make such regulations as may be necessary to carry out the intent and provisions of this section. The provisions of this section shall not be so construed as to impair the discipline of any such institution, so far as may be needful for the good government and safe custody of its inmates, nor prevent the assembling of all the inmates in the chapel thereof for such general religious instruction, including the reading of the Bible, as the board having charge of the institution considers expedient.

[1904, 363, § 1.]

An Act relative to the religious instruction of prisoners and of children bound out in families.

R. L. 225, § 72, amended.

Section 1. Section seventy-two of chapter two hundred and twenty-five of the Revised Laws is hereby amended by inserting after the word "confined", in the fifth line, the words: — and he shall not be required to attend any other service or religious instruction other than that of his own religious belief: *provided,* that religious services and instructions of his own belief are regularly held at the institution, — and by inserting before the word "in", in the thirteenth line, the words: — who do not attend a

regularly held religious service of their own belief, — so as to read as follows: — *Section 72.* An inmate of any prison or other place of confinement or public charitable or reformatory institution shall not be denied the free exercise of his religious belief and the liberty of worshipping God according to the dictates of his conscience, in the place where he is confined; and he shall not be required to attend any other service or religious instruction other than that of his own religious belief: *provided,* that religious services and instructions of his own belief are regularly held at the institution; and he may, in illness, upon request to the warden, keeper or master, receive the visits of any clergyman whom he may wish. The officers and boards of officers who have the management and direction of such institutions shall make such regulations as may be necessary to carry out the intent and provisions of this section. The provisions of this section shall not be so construed as to impair the discipline of any such institution, so far as may be needful for the good government and safe custody of its inmates, nor prevent the assembling of all the inmates, who do not attend a regularly held religious service of their own belief, in the chapel thereof for such general religious instruction, including the reading of the Bible, as the board having charge of the institution considers expedient. [*Approved May 23, 1904.*

Religious worship in prisons, etc.

Proviso.

[1912, 562.]

AN ACT RELATIVE TO THE FREE EXERCISE OF RELIGIOUS BELIEFS BY INMATES OF STATE INSTITUTIONS.

The boards having charge of any prison or other place of confinement or public charitable or reformatory institution shall include as a separate item in their annual requests for appropriations such sums of money as they may think proper to carry out the provisions of section seventy-two of chapter two hundred and twenty-five of the Revised Laws, as amended by section one of chapter three hundred

Exercise of religious beliefs by inmates of state institutions.

and sixty-three of the acts of the year nineteen hundred and four, of section seventy-three of said chapter two hundred and twenty-five, and of chapter four hundred and sixty-four of the acts of the year nineteen hundred and five, relating to the free exercise of their religious beliefs by inmates of such institutions and to the religious instruction of inmates of the state prison. The amounts appropriated and spent for said purposes shall appear as a separate item in the reports of said boards. [*Approved May 4, 1912.*

Removals.

From state prison to state farm. 1890, 180, § 1.

Section 81. [*Amended by 1915, 184, Gen., infra.*] They [the prison commissioners] may, with the consent of the governor and council, remove an aged or infirm prisoner in the state prison to the state farm, and may at any time return him to the state prison.

[1915, 184, Gen.]

An Act relative to the transfer of infirm prisoners.

R. L., ch. 225, § 81, amended.

Chapter two hundred and twenty-five of the Revised Laws is hereby amended by striking out section eighty-one and inserting in place thereof the following: — *Section 81.*

Prison commissioners may transfer certain prisoners, etc.

They may, with the consent of the governor and council, remove to the state farm a prisoner in the state prison who is aged or who is infirm in body or mind, and may at any time return him to the state prison. [*Approved April 19, 1915.*

From reformatory prison for women. 1879, 294, § 4. P. S. 219, § 5. 1896, 317.

Section 82. They may remove a prisoner in the reformatory prison for women to the state farm or to a jail or house of correction, or, if she has been transferred to said prison from the industrial school for girls, to the state farm or to a house of correction.

From Massachusetts reformatory. 1884, 255, §§ 12, 15. 1887, 292, § 1.

Section 83. They may remove a prisoner in the Massachusetts reformatory to the state farm or to any jail or house of correction.

SECTION 84. They may remove a sentenced male prisoner from the state farm to the Massachusetts reformatory, and may at any time return him to the state farm. 1885, 35, § 2.

From state farm to Massachusetts reformatory.

SECTION 85. They may, upon the application of the trustees of the state hospital and the state farm, remove a sentenced prisoner from the state farm to any house of correction in the county in which he was convicted, and may, upon like application, return him to the state farm. 1890, 278, § 1.

— to house of correction.

SECTION 86. They may remove a sentenced female prisoner at the state farm to the reformatory prison for women, and she shall there serve the remainder of her term of sentence. 1879, 294, § 4. P. S. 219, § 5.

— to reformatory prison for women.

SECTION 87. They may, upon the application of the trustees or board in charge of the Lyman and industrial schools, of the house of employment and reformation for juvenile offenders established in the city of Boston, or of any other reform school established under authority of any general or special act, remove to the Massachusetts reformatory a boy who is confined in any of said schools upon a sentence for crime, and may at any time, upon like application, return him to the school from which he was transferred. 1884, 255, § 13. 1901, 128, 359.

From Lyman school for boys, etc.

SECTION 88. They may, upon the application of the trustees of the Lyman and industrial schools, remove to the reformatory prison for women any girl who was committed for a crime to the industrial school for girls, and, upon like application, may return her to the industrial school for girls. 1880, 208, § 3. P. S. 89, § 47.

From industrial school for girls.

SECTION 94. They may remove a prisoner in a jail or house of correction to the state farm, and may at any time return him to the place of imprisonment from which he was removed. 1885, 35, § 1. 1899, 263, § 1. 195 Mass. 45. 1876, 96, § 1. 1879, 294, § 5. P. S. 219, § 6.

From jail or house of correction to state farm.

SECTION 108. [*Superseded by 1903, 354, infra.*] The expense of the removal of a prisoner to or from the Massachusetts reformatory or from the reformatory prison for women to the state farm or to a jail or house of correction, or from the state farm to the Massachusetts reformatory or reformatory prison for women, or from the state farm to a house of correc- 1870, 370, § 6. 1874, 385, § 18. 1879, 229, § 4; 294, § 8. 1880, 120, § 4.

Expense of removal.

P. S. 219, §§ 9, 10. 1884, 255, § 18. 1885, 35, § 2. 1890, 278, § 4. 1894, 214, § 3. 1895, 273.

tion, or of the removal of a sick prisoner from a jail or house of correction to the state farm or his return therefrom, shall be paid from the treasury of the commonwealth, and shall, before payment, be approved by the prison commissioners. The expense of the removal of a prisoner from one jail or house of correction to another, or from a jail or house of correction to the reformatory prison for women, shall be paid by the county from which such prisoner is removed.

[1903, 354.]

AN ACT RELATIVE TO THE EXPENSE OF REMOVING PRISONERS.

R. L. 225, § 108, amended.

SECTION 1. Section one hundred and eight of chapter two hundred and twenty-five of the Revised Laws is hereby amended by striking out the whole of said section and inserting in place thereof the following: — *Section 108.*

Payment of expense of removing prisoners.

The expense of removing prisoners from one jail or house of correction to another shall be paid by the county from which the prisoner is removed. The expense of removing prisoners from jails and houses of correction to any of the state institutions, or from any of the state institutions to a jail or house of correction, shall be paid from the treasury of the commonwealth after approval by the prison commissioners.

SECTION 2. This act shall take effect upon its passage. [*Approved May 15, 1903.*

[1906, 324.]

AN ACT RELATIVE TO THE EXPENSE OF REMOVING PRISONERS.

The prison commissioners to approve bills for expense of removing prisoners.

SECTION 1. The expense of removing a prisoner to or from a state institution by order of the prison commissioners shall be paid upon bills approved by said commissioners, out of the appropriation for the removal of prisoners, except that when a removal is made at the request of the trustees of any institution, or upon the certificate of a prison physician on account of illness, the expense thereof shall be borne by the institution from which the prisoner is removed. The expense of removing a prisoner

to the state asylum for insane criminals or to a state insane hospital, shall be paid by the prison from which the prisoner is removed.

Section 2. All acts and parts of acts inconsistent herewith are hereby repealed. Repeal.

Section 3. This act shall take effect upon its passage. [*Approved April 28, 1906.*

Section 111. The expense of supporting a state prison convict who is committed to a state insane hospital shall be paid by the commonwealth. The expense of supporting a prisoner who is removed from a jail or house of correction to the state farm shall be paid into the treasury of the commonwealth by the county from which he is removed, and the amount thereof shall be determined by the state board of charity. The expense of supporting a sick prisoner who is removed to the state farm under the provisions of section ninety-five, not exceeding three dollars and twenty-five cents a week, shall be paid by the county from which he is removed. Expense of support. 1876, 96, § 2. 1879, 294, § 6. P. S. 219, § 7. 1883, 148, § 1. 1886, 101, § 4. 1894, 214, § 3. 1898, 433, § 24. 195 Mass. 45.

Section 120. [*Amended by 1909, 132, § 2, infra.*] If it appears to the state board of charity that a person who has been imprisoned for drunkenness at the state farm has reformed, or if it appears to the county commissioners, or, in the county of Suffolk to the penal institutions commissioner of the city of Boston, that a person who has been imprisoned for drunkenness in a jail, house of correction or other place of confinement has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence. Permit to persons imprisoned for drunkenness. 1880, 221, § 3; 247, § 2. P. S. 220, § 68. 1885, 375. 1886, 101, § 4. 1898, 443, § 2.

[1909, 132, §§ 2, 3.]

An Act relative to issuing permits to prisoners to be at liberty.

Section 2. Section one hundred and twenty of said chapter two hundred and twenty-five is hereby amended by inserting after the word "confinement", in the sixth and seventh lines, the words: — for a term or for non-payment of a fine, — so as to read as follows: — *Section* R. L. 225, § 120, amended.

Permit to persons imprisoned for drunkenness.

120. If it appears to the state board of charity that a person who has been imprisoned for drunkenness at the state farm has reformed, or if it appears to the county commissioners, or, in the county of Suffolk to the penal institutions commissioner of the city of Boston, that a person who has been imprisoned for drunkenness in a jail, house of correction or other place of confinement, for a term or for non-payment of a fine, has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence.

Section 3. This act shall take effect upon its passage. [*Approved March 3, 1909.*

Discharge from state farm.
1876, 96, § 1.
1879, 294, § 5.
P. S. 219, § 6.
1887, 292, § 2.
1890, 278, § 2.
1899, 263, § 2.

Section 122. The state board of charity shall have the same power to discharge a person who has been removed from a jail or house of correction to the state farm or from the state farm to a house of correction as it would have to release him from the state farm if he had been originally sentenced thereto, and shall have the same authority to release a prisoner who has been removed thereto from the Massachusetts reformatory as the prison commissioners would have to release him from said reformatory.

Discharge on Saturday if term ends on Sunday.

Section 130. A prisoner whose term expires on Sunday shall be discharged on the preceding Saturday.

1864, 194, § 1. P. S. 222, § 24.

Sick prisoner to be cared for in prison after expiration of sentence.
1853, 388.
G. S. 71, §§ 40–42.
1864, 169.
1874, 170, § 1.
P. S. 222, § 25.

Section 131. A prisoner, who at the expiration of his sentence, is in such condition from bodily infirmity or disease as to render his removal impracticable shall be suitably cared for in the prison or other place of confinement until he is in a condition to be removed. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the city or town in which he has a legal settlement, after notice to the overseers thereof, or, if he is a state pauper, to the state board of charity, of the expiration of his sentence and of his condition.

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